

**EXHIBIT D**

1 UNITED STATES BANKRUPTCY COURT  
2 DISTRICT OF PUERTO RICO  
3  
4 In Re: ) Docket No. 3:17-BK-3283 (LTS)  
5 )  
6 ) Title III  
7 The Financial Oversight and )  
8 Management Board for )  
9 Puerto Rico, ) (Jointly Administered)  
10 )  
11 as representative of )  
12 )  
13 The Commonwealth of )  
14 Puerto Rico, et al., ) June 12, 2019  
15 )  
16 and )  
17 )  
18 )  
19 Puerto Rico Electric )  
20 Power Authority, )  
21 )  
22 Debtors. )

In Re: ) Docket No. 3:17-BK-3566 (LTS)  
 )  
 ) PROMESA Title III  
The Financial Oversight and )  
Management Board for )  
Puerto Rico, ) (Jointly Administered)  
 )  
as representative of )  
 )  
Employees Retirement System )  
of the Government of the )  
Commonwealth of )  
Puerto Rico, )  
 )  
Debtor. )

23

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1  
2 In Re: ) Docket No. 3:17-BK-3567 (LTS)  
3 )  
4 ) PROMESA Title III  
5 The Financial Oversight and )  
6 Management Board for )  
7 Puerto Rico, ) (Jointly Administered)  
8 )  
9 as representative of )  
10 )  
11 Puerto Rico Highways and )  
12 Transportation Authority, )  
13 )  
14 Debtor. )

10 In Re: ) Docket No. 3:17-BK-4780 (LTS)  
11 )  
11 ) PROMESA Title III  
12 The Financial Oversight and )  
12 Management Board for )  
12 Puerto Rico, ) (Jointly Administered)  
13 )  
13 as representative of )  
14 )  
14 Puerto Rico Electric )  
15 Power Authority, )  
15 )  
16 Debtor. )

## OMNIBUS HEARING

19 BEFORE THE HONORABLE U.S. DISTRICT JUDGE LAURA TAYLOR SWAIN

UNITED STATES DISTRICT COURT JUDGE

AND THE HONORABLE U.S. MAGISTRATE JUDGE JUDITH GAIL DEIN

UNITED STATES DISTRICT COURT JUDGE

23 ||

1 APPEARANCES:

2 For The Commonwealth  
of Puerto Rico, et al.: Mr. Martin J. Bienenstock, PHV  
3 Mr. Paul Possinger, PHV  
4 Ms. Laura Stafford, PHV  
Mr. Gregg M. Mashberg, Esq.  
5 For the U.S. Trustee  
Region 21: Ms. Monsita Lecaroz Arribas, AUST  
6 For Official Committee  
7 of Unsecured Creditors: Mr. Luc A. Despins, PHV  
8 For Puerto Rico Fiscal  
9 Agency and Financial  
10 Advisory Authority: Mr. Peter Friedman, PHV  
11 For Financial Guaranty  
12 Insurance Company: Mr. Martin Sosland, PHV  
Mr. Jason Callen, PHV  
13 For Ad Hoc Group of  
14 General Obligation  
Bondholders: Mr. Mark T. Stancil, PHV  
15 For Ambac Assurance  
16 Corporation: Ms. Atara Miller, PHV  
17 For Association of  
the Puerto Rico  
18 Judiciary: Mr. David Indiano Vicic, Esq.  
19 For Ad Hoc Group of  
20 Constitutional  
Debtholders: Mr. Andrew Kissner, PHV  
21 For Syncora Guarantee: Mr. Carlos Rodriguez Vidal, Esq.  
22 For Windmar Renewable  
Energy, Inc., et al.: Mr. Fernando Agrait Betancourt, Esq.  
23 For National Public  
24 Finance Guarantee: Mr. Robert Berezin, PHV  
25

1 APPEARANCES, Continued:

2 For AmeriNational  
3 Community Services,  
4 LLC: Mr. Nayuan Zouairabani, Esq.

5 For U.S. Bank  
6 National Association: Mr. Clark Whitmore, PHV

7 For Assured Guaranty  
8 Corporation and Assured  
9 Guaranty Municipal  
10 Corporation: Mr. William Natbony, PHV

11 For Union de  
12 Trabajadores de la  
13 Industria Electrica y  
14 Riego, Inc.: Mr. Rolando Emmanuel Jiminez, Esq.

15 For Sistema de Retiro  
16 de los Empleados de la  
17 Autoridad de Energia  
18 Electrica: Ms. Jessica Mendez Colberg, Esq.

19 For the Official  
20 Committee of Retired  
21 Employees of the  
22 Commonwealth of  
23 Puerto Rico: Mr. Robert Gordon, PHV

24 For Cortland Capital  
25 Market Services, LLC: Mr. Emil Kleinhaus, PHV

For the Fee Examiner: Mr. Brady Williamson, Fee Examiner  
Ms. Katherine Stadler, PHV

Additional speakers: Mr. Jay Herriman  
Mr. Carlos Cintron Garcia

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	I N D E X	
		PAGE
1		
2	WITNESSES:	
3	None offered.	
4		
5	EXHIBITS:	
6	None offered.	
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1 San Juan, Puerto Rico

2 June 12, 2019

3 At or about 9:29 AM

4 \* \* \*

5 COURTROOM DEPUTY: The United States District Court  
6 is now in session. The Honorable Laura Taylor Swain  
7 presiding, also sitting, Magistrate Judge Dein. God save the  
8 United States of America and this Honorable Court.

9 THE COURT: Again, good morning. Welcome counsel,  
10 parties in interest, and members of the public and press here  
11 in San Juan, those observing here and in New York and to the  
12 telephonic participants. As always, it is good to be back  
13 here.

14 I would like to note that we are also joined this  
15 morning here in San Juan by the District Court Executive and  
16 Clerk of Court of the Southern District of New York, Ed  
17 Friedland and Ruby Krajick, and also Lisa Ng, who is regularly  
18 my courtroom deputy in New York. And we're pleased to be  
19 together here. And of course, our own Clerk of Court of the  
20 District of Puerto Rico is here as well, Frances Rios de  
21 Moran.

22 I will remind you, and this is my usual speech about  
23 devices, but I make it every time because it's a serious  
24 speech. So consistent with court and judicial conference  
25 policies and the Orders that have been issued, there is to be

1      no use of any electronic devices in the courtroom to  
2      communicate with any person, source, or outside repository of  
3      information, nor to record any part of the proceeding. Thus,  
4      all electronic devices must be turned off unless you are using  
5      a particular device to take notes or to refer to notes or  
6      documents already loaded on the device.

7                All audible signals, including vibration features,  
8      must be turned off. And no recording or retransmission of the  
9      hearing is permitted by any person, including but not limited  
10     to the parties or the press. Anyone who is observed or  
11     otherwise found to have been texting, e-mailing or otherwise  
12     communicating with a device from the courtroom, whether here  
13     or in New York, during the court proceeding, will be subject  
14     to sanctions, including but not limited to confiscation of the  
15     device and denial of future requests to bring devices into the  
16     courtroom.

17               Our overall timetable today is until noon, and then  
18     from 1:00 until 5:00. Now, before we begin our proceedings  
19     with the usual status report, I want to observe that my status  
20     over the last few days and up through last night and early  
21     this morning has included fielding voluminous, substantive  
22     last minute filings on issues that could and should have been  
23     foreseen and cued up in a more orderly and efficient fashion.

24               My time, Judge Dein's time and that of court staff  
25     has been called upon in ways that are, frankly, highly

1      inefficient. And I am certain that litigation costs to the  
2      estate have been multiplied by the staffing required to churn  
3      out pages on short notice. This must not be the norm. In the  
4      future, I will expect that matters for an Omni will be briefed  
5      in accordance with the Case Management Order, and that any  
6      later filings will be limited to requests to adjourn matters  
7      to permit orderly briefing and consideration of additional  
8      issues, or notices that matters have been resolved  
9      consensually. And I will not look kindly on urgent motion  
10     practice that could have been avoided by forethought.

11                One final note in this connection is that status  
12     reports and informative filings are not appropriate vehicles  
13     for initiating contested matters or requests for court action.  
14     And with that, let's begin the status report of the Oversight  
15     Board.

16                Mr. Bienenstock.

17                MR. BIENENSTOCK: Good morning, Judge Swain.

18                THE COURT: Good morning.

19                MR. BIENENSTOCK: Martin Bienenstock of Proskauer  
20     Rose for the Oversight Board.

21                Your Honor identified five topics for the status  
22     report and I will take them in order. In terms of the general  
23     status and activities of the Oversight Board, PROMESA Section  
24     202 requires that certified budgets be in place by June 30 of  
25     each year for the fiscal year beginning July 1.

1           Therefore, working backwards from June 30, the  
2 Oversight Board must proceed, as required by PROMESA sections  
3 201 and 202, to have certified fiscal plans and budgets in  
4 place by June 30. Therefore, that has been a major activity  
5 the last several months and will continue that way through  
6 June 30.

7           Simultaneously, the Oversight Board has engaged in  
8 negotiations with numerous constituencies that will vote on  
9 any Commonwealth plan. These negotiations are all very  
10 sensitive, constructive and in different stages.

11          The ones I can report on are as follows: We are  
12 pleased to inform the Court this morning that the Oversight  
13 Board and the Retiree Committee have formulated a mutual  
14 agreement and solution to the treatment of accrued pension  
15 benefits in this case. The Oversight Board recently entered  
16 into a Plan Support Agreement with the Retiree Committee  
17 regarding this agreement, which includes the Retiree  
18 Committee's support for a Commonwealth Plan of Adjustment that  
19 contains the substance of the agreement we reached. The  
20 Retiree Committee announced the agreement by press release  
21 earlier this morning.

22          THE COURT: I saw the report.

23          MR. BIENENSTOCK: In summary, the total claims  
24 provide that -- the total claims and bonus payments  
25 prepetition will be reduced by up to 8.5 percent under a Plan

1      of Adjustment for the Commonwealth. I say up to 8.5 percent  
2 because we've agreed to a floor of 1,200 dollars per month,  
3 below which no retiree's benefit will be reduced. Those whose  
4 total monthly benefit is already under 1,200 a month will not  
5 incur any reduction at all.

6                There will also be a restoration of cut benefits in  
7 the years the Commonwealth has a surplus and outperforms the  
8 fiscal plan. The agreement also calls for reserve to be  
9 funded from budget surpluses in the first eight years  
10 following plan confirmation, and segregated for payment of  
11 pensions as needed in future deficit years.

12                The Oversight Board believes this solution achieves  
13 needed savings for the Commonwealth while providing greater  
14 security for retirees going forward and is an instrumental  
15 component of a Plan of Adjustment for the Commonwealth.

16                I can also announce that the Oversight Board has  
17 executed a plan support agreement with the Union, AFSCME, for  
18 a new collective bargaining agreement and treatment of claims  
19 arising from the existing CBA, which will be rejected; and  
20 also engineered a deal and principles with the AFT, American  
21 Federation of Teachers, for a similar plan support agreement  
22 that remains subject to a member vote taking place today.  
23 Both unions have announced these agreements by press release  
24 in the last week or two.

25                The two union deals have special significance. It is

1      critical that negotiations with unions result in win-win  
2 situations. The workers are the backbone of the Commonwealth  
3 and must be fairly compensated, while the other components of  
4 collective bargaining agreements need to be adjusted to create  
5 efficiencies and be sustainable in the 21st century.

6                 Both unions, officers and advisors have been the  
7 brightest, most dedicated and most enlightened people you can  
8 find. They fiercely advocated their members' rights while  
9 recognizing that new collective bargaining agreements need to  
10 be affordable and structured for long term. They acted like  
11 statesmen and stateswomen, not politicians, and the Board  
12 appreciates what they did for their members and for the  
13 Commonwealth.

14                 Your Honor, there are two other very significant  
15 negotiations in progress. There are several other very  
16 significant negotiations in progress, and except for one I  
17 will identify, I can only say we hope there will be further  
18 announcements such as the ones I've made in coming weeks.

19                 The one additional negotiation I can identify was  
20 made public by Syncora in the Joint Status Report dated June  
21 7, 2019, docket number 1294, concerning the PREPA RSA. At  
22 page 23 of the status report, Syncora writes it has recently  
23 made progress to enable it to become a part to the RSA subject  
24 to certain issues. We hope and think those issues will be  
25 resolved in the next few days.

1                   Finally, the Oversight Board has continued its  
2 investigations into the Commonwealth's cash and cash systems,  
3 and has continued urging the powers that be in Washington,  
4 D.C., to provide cash and create investment incentives to and  
5 for the benefit of the Commonwealth.

6                   Judge Swain, in respect of the anticipated filing  
7 dates of the Proposed Commonwealth Disclosure Statement and  
8 Plan, I can report the Oversight Board hopes to file them  
9 within the next 30 days. The number of moving parts are  
10 preventing me from making promises, but 30 days is the current  
11 intent.

12                  In respect of the timing and use of mediation in  
13 facilitating confirmation of the plan, I can report we have  
14 one mediation scheduled in the near term. And the Board will  
15 be open to mediation with all groups who ultimately have not  
16 agreed in advance to the proposed plan that gets filed.

17                  The Court asks for a response to the GO bondholders  
18 assurance certification that clawback actions and the Bond  
19 Invalidation Act are contingent, and a clarification of the  
20 Oversight Board and Creditors' Committee's positions with  
21 respect to ripeness of such litigation.

22                  Before I provide the response, I want to note that  
23 the Oversight Board hopes its proposed plan of adjustment will  
24 propose settlements of the invalidation actions that may  
25 eliminate the need for them or reduce their scope

1      significantly. In terms of the actions requesting return of  
2 principal and interest payments made on invalid debt, those  
3 actions had to be filed when they were filed to avoid statute  
4 of limitations issues. But as the Creditors' Committee said  
5 at the time, they should be stayed until we know which debt,  
6 if any, is invalidated.

7                The invalidation objections are not contingent, but  
8 the GO bondholders' motion raises an issue of -- a logistical  
9 issue that may bear on how the Court determines to handle  
10 these actions. Every holder of debt sought to be invalidated  
11 may raise as a defense certain prior issued debt was invalid,  
12 therefore -- thereby creating more debt capacity to make  
13 subsequent debt valid.

14               They can raise that defense concerning any defendant  
15 regardless of whether the Oversight Board or Creditors'  
16 Committee has sought to invalidate the debt raise as a  
17 defense. To avoid inconsistent rulings, the invalidation  
18 rules should probably be consolidated for trial, and notice  
19 should be given to all parties when appropriate about all the  
20 debt that may be attacked.

21               By suggesting this, I want to acknowledge that the  
22 invalidation of previous debt may make no difference as to  
23 whether other subsequent debt is invalidated, and the  
24 Oversight Board takes no position on that contention at  
25 present.

1           Insofar as the update regarding the Oversight Board's  
2 plans with respect to the anticipated July 15, 2019, issuance  
3 of the First Circuit mandate -- well, prior to July 15, the  
4 Board will be requesting the First Circuit and/or the United  
5 States Supreme Court to issue a further stay. The United  
6 States Department of Justice may also request a stay.

7           President Trump announced he will propose the  
8 existing board members to the Senate, and we believe that  
9 should happen any day now and would buttress any of the  
10 requests for a stay.

11           Your Honor, subject to the Court's questions, that is  
12 the status report.

13           THE COURT: Thank you, Mr. Bienenstock.

14           MR. BIENENSTOCK: Thank you.

15           THE COURT: I see Mr. Friedman is standing.

16           Mr. Stancil. So let's see. Mr. Stancil, you're closest to  
17 the aisle. Thank you.

18           MR. STANCIL: Good morning, Your Honor.

19           THE COURT: Good morning.

20           MR. STANCIL: Mark Stancil for the Ad Hoc GO Group.

21           I'd like to request the Court's permission to file a  
22 short response to the update on the contingency of the claims.  
23 Mr. Bienenstock said that the claims against these other bonds  
24 are not contingent. He didn't offer any explanation as to how  
25 that could be.

1                   Count I of these clawback actions, which are directed  
2 to more than just the bond -- the 2012s, 2011s and 2014s that  
3 have been formally subject to a claim objection, Count I, for  
4 example, on the PBA clawback action, Count I says those bonds  
5 are null and void. So either they're null and void or they're  
6 not, but just saying it's not a contingent claim objection --  
7 I think we'd like the opportunity to say, explain why it is  
8 just as contingent, if not more so, than the position they  
9 took when we filed a few months ago.

10                  And also, Mr. Bienenstock suggested that all of the  
11 bonds should be given notice and put in consolidation for  
12 trial. I would like to say that is precisely what we proposed  
13 in April, and they opposed at the time.

14                  I'd like to lay this out for Your Honor, if I could,  
15 in maybe five pages. If I could. Would that be acceptable?

16                  THE COURT: Well, what I'd ask you to do, since  
17 Mr. Bienenstock responded orally, as I requested him to do  
18 given the timing and that we were going to have this Omni, I  
19 think a meet and confer and a decision either on a joint  
20 statement of the mutual positions or responsive, short  
21 statements, please, would be a more orderly way to get the  
22 information to me.

23                  And so if you can get that all done by, say, the end  
24 of next week, that would be acceptable to the Court.

25                  MR. STANCIL: Thank you, Your Honor. That would be

1           excellent.

2           THE COURT: Thank you.

3           Yes, sir.

4           MR. GORDON: Good morning, Your Honor. For the  
5 record, Robert Gordon of Jenner & Block for the Official  
6 Retiree Committee.

7           THE COURT: Good morning, Mr. Gordon.

8           MR. GORDON: Good morning, Your Honor. Thank you.

9           On behalf of the Retiree Committee, I wish to confirm  
10 the comments of Mr. Bienenstock and confirm that the Retiree  
11 Committee and Oversight Board have entered into a plan support  
12 agreement regarding the proposed treatment of the claims of  
13 Puerto Rico's retirees who participated in the Government  
14 Employee Retirement System, the Teachers Retirement System and  
15 the Judiciary Retirement System under a prospective Puerto  
16 Rico Plan of Adjustment to be filed and submitted to the Court  
17 for consideration.

18           We believe this Plan Support Agreement is  
19 significant, extremely significant in this case, and provides  
20 a cornerstone for a plan of adjustment for Puerto Rico, which  
21 will enable Puerto Rico to emerge from this Title III process  
22 and focus on the brightness of its economic future, rather  
23 than the darkness of its current financial predicament.

24           I realize this is not a Rule 9019 settlement hearing  
25 or confirmation hearing, but if I may, knowing this is going

1      to raise more questions than it answers, I'd like to explain a  
2      little to the public, as well as the Court, why and how we  
3      arrived at this significant agreement.

4           To be clear, the Retiree Committee does not believe  
5      there is any mandate under the applicable law or the facts of  
6      this case for any cutting or modification of pension benefits.  
7      However, the Retiree Committee recognizes that others, in good  
8      faith, can harbor a different view. And in this regard, the  
9      Retiree Committee further recognizes that the Oversight Board  
10     has clearly and consistently expressed the viewpoint that  
11     pension cuts are necessary to achieve a confirmed plan of  
12     adjustment for Puerto Rico.

13           Against this backdrop, the Retiree Committee has  
14     taken the view that its fiduciary duties required it to, in  
15     the first instance, engage in negotiations with the Oversight  
16     Board and explore a consensual resolution rather than simply  
17     decline negotiations, insist on no cuts, and assume the risks  
18     of litigating such matters. So the Retiree Committee indeed  
19     engaged in extensive and intensive negotiations with the  
20     Oversight Board over many, many, many months.

21           I emphasize that because that hard work by the  
22     Retiree Committee's members and professionals and the  
23     Oversight Board's members and professionals is work that  
24     doesn't get reported in the papers, in the media. It's not  
25     visible to the public. But let there be no doubt about the

1      extremely hard work that was done by both parties to reach  
2      this agreement over a long period of time.

3                 And the result of the parties' efforts, Your Honor,  
4      is that Plan Support Agreement that we believe is highly  
5      favorable in its proposed treatment of retirees. A few  
6      highlights, if I may. Mr. Bienenstock has referenced some of  
7      them already.

8                 It is important to recognize that the Oversight  
9      Board's proposed treatment of pensions under its various  
10     iterations of its certified fiscal plan originally  
11     contemplated cuts for retirees holding monthly pension  
12     benefits of just 1,000 dollars, or just 600 dollars if they  
13     also received Social Security. Under the Plan Support  
14     Agreement with the Retiree Committee, Social Security benefits  
15     will not be subject to a cut at all, and the threshold for  
16     cuts has been raised to 1,200 dollars a month, as  
17     Mr. Bienenstock has indicated.

18                 This vastly -- this provides vastly greater  
19     protection for the most vulnerable retirees in our community.  
20     It increases the percentage of retirees who will receive no  
21     cut under a plan of adjustment from roughly 25 percent to  
22     fully 61 percent of all retirees, and in absolute numbers, it  
23     increases the number of protected retirees from 45,000 to  
24     approximately 102,000 retirees.

25                 The original proposal in the fiscal plan also

1      contemplated team progressive pension cuts with some  
2      pensioners receiving cuts of approximately 25 percent. Under  
3      the Plan Support Agreement, the maximum cut to any pensioner  
4      is capped at a maximum of 8.5 percent, reducing the top level  
5      cut by roughly two-thirds.

6                 The Plan Support Agreement also reflects a concern  
7      regarding the security and assurance of future payments to  
8      retirees under the Pay-Go system. I want to emphasize that  
9      this was a mutual concern of the Retiree Committee and the  
10     Oversight Board. The Retiree Committee suggested a mechanism  
11     for creating a pension reserve and has taken the lead in  
12     designing that pension reserve mechanism, and the Oversight  
13     Board was receptive from the beginning.

14                Those -- the terms of that pension reserve are  
15     included in the term sheet attached to the Plan Support  
16     Agreement. Details of it are still being negotiated, to some  
17     extent, and will come out in the future. The agreement also  
18     protects the monthly medical insurance benefits for all who  
19     receive that.

20                As Mr. Bienenstock referenced, there's also a benefit  
21     restoration mechanism. So if the economy of Puerto Rico  
22     substantially outperforms projections, there is the  
23     opportunity for restoration of pension cuts in any given year  
24     in which that overperformance occurs. Also, to give  
25     pensioners time to prepare for any possible cuts, there will

1      be no modification of pensions until at least July 1 of 2020.

2            THE COURT: You said 2020?

3            MR. GORDON: 2020, Your Honor. Yes.

4            THE COURT: Thank you.

5            MR. GORDON: Your Honor, there's also under  
6            negotiation, but -- the concept has been referenced and is  
7            still under negotiation, but is referenced in the Plan Support  
8            Agreement of the creation of an independent board pursuant to  
9            the Plan of Adjustment itself, consisting of retirees elected  
10           by retirees to supervise the implementation of pension  
11           reserve, the benefit restoration calculation, and payments  
12           under the Pay-Go system and general compliance with the Plan  
13           terms as they pertain to retirees.

14           We recognize that some have argued that fully  
15           protecting pensions from any cuts is a desirable goal and we  
16           agree. And to that end, the Plan Support Agreement that we  
17           are discussing today more than doubles the number of retirees  
18           receiving no cuts.

19           And what we have said to parties that might criticize  
20           the fact that there are cuts that are contemplated is that if  
21           those parties can persuade the Oversight Board, the only  
22           entity that can file a plan in this case, to propose a plan  
23           with better treatment, we would welcome that. But we do not  
24           see a path to such a result, and only a path that involves a  
25           very substantial risk of backfiring and resulting in

1           devastatingly worse treatment of pensions.

2           We do not take lightly any cuts to pensions. We are  
3           not pleased that cuts are contemplated; but we believe that we  
4           have acted prudently and consistently with our fiduciary  
5           duties to minimize the impact of this case on retirees and  
6           have achieved a highly favorable result in light of the  
7           circumstances.

8           Thank you, Your Honor.

9           THE COURT: Thank you, Mr. Gordon.

10          And I will call on Mr. Friedman, but I also just want  
11          to thank and congratulate all concerned on the progress that  
12          has been made so far. All of these proposals and agreements  
13          will obviously be subject to litigation and will need to be  
14          brought before the Court, and some of them may well be  
15          opposed. And the Court will make determinations on them. But  
16          having proposals to focus on in aid of moving toward a plan of  
17          adjustment is a very significant step indeed, and that step  
18          appears to be taken on various fronts. And so again, I thank  
19          you for these presentations.

20          Mr. Friedman.

21          MR. FRIEDMAN: Good morning, Your Honor. Peter  
22          Friedman on behalf of AAFAF and Governor Rossello.

23          To end the suspense, we will be opposing. And that's  
24          probably the last funny thing that can be said about pensions.  
25          Look, Your Honor, I think, as you know, over the last two

1      years, the government has shown a lot of leadership both in  
2      Title III, Title VI, working with the Oversight Board, trying  
3      to reach creditors consensus. We take the last line -- I  
4      think it was the last lines of your CTO opinion seriously  
5      about the need for constructiveness, and I think we've  
6      demonstrated that over and over again.

7            But with respect to the two announcements today, we  
8      can't support them and feel like we have to oppose them for a  
9      variety of reasons. Obviously the pension cut issue strikes  
10     at the government's responsibility to protect very vulnerable  
11     citizens, and with respect, I think something I hadn't really  
12     focused on before, an aspect of the pension agreement creating  
13     some independent board, as well as the agreement with the  
14     unions to effectively negotiate a new CBA, are things that we  
15     believe are even greater intrusions on the protected powers of  
16     the government than the CTO motion.

17            We believe those, simply put, exceed the Oversight  
18     Board's powers under Title I, II or III, to engage in those  
19     kinds of transactions which severely trounce on the rights of  
20     the government to engage in a collective bargaining agreement  
21     as the actual employer, to set educational policy as the  
22     actual employer of the Commonwealth's teachers, to oversee  
23     funds to be apparently put in potentially some kind of trust.  
24     Those are core governmental responsibilities and not things  
25     that can be taken away from the government in our view. And

1      as things go forward, we will affirmatively make our case on  
2      those points.

3                With respect to retiree pension cuts, Your Honor, I  
4      think what we note is -- the whole history of retirement  
5      issues is that pensioners have seen cost of living adjustments  
6      and freezes for years. And we're not living in a zero  
7      inflation environment. So people have seen, retirees have  
8      seen their standard of living erode, and we believe this does  
9      so to an even greater extent. And we will, you know, in  
10     certain cases deprive people of up to 300 dollars a year. For  
11     people living on a fixed income, we think that's meaningful  
12     and is going to force choices on people that can be avoided.  
13     And can be avoided, I think, given -- particularly if you look  
14     at the seven fiscal plans that have been certified over the  
15     years.

16               They show that the government, through the leadership  
17     of this Governor, and the economic growth that we've seen  
18     here, has enough money not to make these cuts. We think these  
19     cuts -- the Commonwealth has been successful in implementing  
20     substantial cost saving measures. It's generating sufficient  
21     cash flows to pay its Pay-Go obligations. The Commonwealth  
22     has assumed those liabilities, and we think it has a moral  
23     obligation and capacity to keep paying them. And we're  
24     particularly troubled by the idea that pension cuts could be  
25     made available to bolster off-island creditor recoveries when

1      it's not necessary.

2                 The projected surpluses under the most recent fiscal  
3 plan has increased to 22 billion dollars. We think that's  
4 enough certainly to cover the pension cuts, which I -- the net  
5 present value of those cuts is tiny and can easily be covered  
6 through choices the Board can make. And we believe, frankly,  
7 there is no legal ability to make those cuts in light of Act  
8 106, which created post-petition obligations by the Oversight  
9 Board to make those payments.

10               Your Honor, with respect to -- you know, I think,  
11 again, I think the critical issue here is you -- if Mr. Gordon  
12 and Mr. Bienenstock said something like 61 percent of  
13 pensioners won't have to address cuts, but that leaves, we  
14 believe, approximately 55,000 retirees who do. And we think,  
15 from a legal and moral and economic perspective, we have the  
16 obligation to protect those rights as substantially as  
17 possible. And we will do that as this process unfolds.

18               Again, we are mindful and we will remain mindful of  
19 the admonition to be constructive. I think you will hear  
20 shortly Ms. McKeen and Proskauer and the Board's PREPA teams  
21 work hand in hand. We're continuing to move forward on that,  
22 but this is fundamental.

23               Your Honor, that raises critical issues, and I can't  
24 be anything less than candid with you from the front that the  
25 Board and -- Your Honor, we are at different positions with

1 respect to these cuts and CBA. Thank you.

2 THE COURT: Thank you. And I do appreciate your  
3 candor.

4 Mr. Sosland.

5 MR. SOSLAND: Good morning, Your Honor.

6 THE COURT: Good morning.

7 MR. SOSLAND: Martin Sosland of Butler Snow on behalf  
8 of Financial Guaranty Insurance Company.

9 Not to announce the pension settlement -- we'll  
10 review and respond if appropriate in due course, but to just  
11 respond to a couple things that Mr. Bienenstock said, and one  
12 comment by the Court relating to the fact that matters may  
13 need to be brought before the Court and litigated, there are  
14 critical issues in these cases, as critical as the  
15 Commonwealth-COFINA settlement that the Court previously  
16 approved in the case, relating to whether certain funds,  
17 revenue streams are property of which covered entity under  
18 PROMESA.

19 Those issues have been teed up in litigation brought  
20 by the Oversight Board and the UCC that is being -- for which  
21 stays are being sought to that litigation, and that will be  
22 addressed before Judge Dein this afternoon.

23 THE COURT: Yes. That is on the agenda.

24 MR. SOSLAND: But the point is whenever -- those  
25 issues will have to be either litigated or settled before any

1      plan of adjustment can be confirmed by Your Honor. And that  
2      will affect timing.

3                And we heard in the retiree settlement -- the only  
4      comment I'll make about it, issues about what might happen in  
5      2020, and we've seen reports from -- that Ms. Jaresko has  
6      stated, that she expects that a plan of adjustment for the  
7      Commonwealth will be effective as of January 1, 2020. Only if  
8      those issues are resolved by either settlement, as would be  
9      the norm, and in a complex restructuring, or by litigation,  
10     are those dates possibly at all relevant.

11               And although we've heard comments about negotiations  
12     with constituencies in the cases, and we note the retirement  
13     deal and announcements related to PREPA, et cetera, with  
14     respect to the entities that have an interest in the revenue  
15     streams at interest, there have been either no negotiations  
16     since the commencement of these cases or no negotiations under  
17     the auspices of the mediator or otherwise in well over a year.

18               And unless those discussions go forward, or we're  
19     litigating full blast before Your Honor, and to whatever  
20     extent it's delegated before Judge Dein, then I don't see that  
21     anything is going to be going effective in 2020, or perhaps  
22     for several years later. And we need to engage in those  
23     discussions. Thank you.

24               THE COURT: Thank you.

25               And Mr. Bienenstock, I am taking you at your word

1      that there is desire and willingness to actually engage with  
2      parties expected to oppose the plan that you intend to  
3      propose.

4                    MR. BIENENSTOCK:    Absolutely, Your Honor. I said it  
5      in opening. The Court can take me at my word, yes. And  
6      Mr. Sosland and I have known each other for many years, having  
7      been partners for a long time. We both know how these cases  
8      go, as does everyone else in this courtroom. And if there are  
9      settlements to be had, we'll do them. Otherwise, we'll tee  
10     them up for negotiation as appropriate, but the first, Your  
11     Honor, is obviously settlement.

12                  THE COURT:    So to take you at your word, by the  
13     people -- the people at the door, it will require some action.

14                  MR. BIENENSTOCK: I understand, Your Honor.

15                  Somehow Reorg Research has already informed I said I  
16     would plan on filing a plan in three days. I want to clear  
17     that up. I said 30 days.

18                  THE COURT:    Those digits can be a problem.

19                  MR. BIENENSTOCK:    And I will not take this point to  
20     discuss Mr. Friedman's unfortunate remarks. We'll do that in  
21     due course.

22                  THE COURT:    Thank you.

23                  Yes, sir.

24                  MR. RODRIGUEZ VIDAL: Good morning, Your Honor.

25     Carlos Rodriguez Vidal of Goldman Antonetti & Cordova on

1      behalf of Syncora Guaranty.

2                THE COURT: Good morning.

3                MR. RODRIGUEZ VIDAL: Thank you. As noted in the  
4 Status Report filed on June 7, 2019, which is docket 1294, and  
5 the Amended Joint Status Report that was filed on June 11,  
6 which is docket 1334, Syncora and the government parties in  
7 the Puerto Rico Electric Power Authority case have recently  
8 made significant progress to enable Syncora to become a party  
9 to the Restructuring Support Agreement.

10               Since the filing of the Joint Status Report, Syncora  
11 has continued to negotiate with the parties and the other RSA  
12 parties, and it is apparent Syncora has reached an agreement  
13 in principle with all of the parties to the RSA. This  
14 agreement, of course, is subject to some approvals and  
15 documentation. And these are underway, and we expect to  
16 complete those shortly. Thank you.

17               THE COURT: Thank you, Mr. Rodriguez Vidal.

18               Yes, sir.

19               MR. EMMANUELLI JIMENEZ: Good morning. Rolando  
20 Emmanuelli Jimenez on behalf of UTIER. I would like to  
21 respond to Mr. Bienenstock's comments on the litigation.

22               And I would like to inform this Court on June 5th,  
23 2019, UTIER filed a petition for a writ of certiorari, case  
24 number 18-1521, requesting the invalidation of all the actions  
25 and determinations of the Oversight Board based on solid

1      Supreme Court case law. This case could be considered in the  
2      June 20th conference of the Supreme Court.

3                 The Supreme Court's review is warranted since the  
4      Court of Appeals misconstrued the de facto officer doctrine  
5      and applied it to an Appointments Clause challenge. The  
6      Supreme Court has expressly refused its application with  
7      respect to Appointments Clause challenges in *Ryder versus U.S.*

8      --

9                 THE COURT: I understand that that is the argument  
10     that you are making to the Supreme Court.

11                MR. EMMANUELLI JIMENEZ: I understand, yes.

12                THE COURT: In the petition.

13                MR. EMMANUELLI JIMENEZ: But I would like to finish,  
14     Your Honor, saying UTIER reiterates the seriousness of such  
15     determinations on Puerto Rico, which may cause irreparable  
16     damages and harmful consequences to the UTIER. Therefore,  
17     UTIER believes that this contested matter regarding PREPA's  
18     RSA is an unnecessary and burdensome waste of resources of the  
19     people of Puerto Rico, since based on its unconstitutionality,  
20     UTIER already reserved the right to challenge any and all  
21     actions taken by the Oversight Board in the adversary  
22     proceeding that's filed at 17-0228, docket 145.

23                Therefore, we believe that the Oversight Board  
24     members hold their position without legal authority. Thus,  
25     its previous and future actions are void. Thank you.

1                   THE COURT: Thank you, Mr. Emmanuel Jimenez.

2                   All right. Before we move on to the Fee Examiner's  
3 report, I'd like to briefly touch on two additional topics not  
4 listed on the Agenda. First, the Court has received and  
5 reviewed the urgent motion of the Oversight Board and the UCC  
6 for limited relief from the Supplemental Case Management Order  
7 seeking to amend certain of the adversary complaints to add  
8 additional defendants, adding up to a thousand defendants in  
9 any given case.

10                  I am currently working with the Clerk of Court to  
11 establish appropriate procedures that would potentially allow  
12 for necessary amendments. Nothing should be filed until the  
13 Court enters an Order.

14                  And you should understand that in order to ensure  
15 reliability and close quality control of the ECF recordkeeping  
16 system, the procedures that will be announced are likely to  
17 cap the number of additions well below one thousand per case  
18 and may utilize related-case designation methodologies for  
19 achieving the additions and corrections. So stay tuned, and  
20 sit tight until the procedural order is entered.

21                  The Court has also received and reviewed the Joint  
22 Status Report filed by Ambac and the Oversight Board in  
23 connection with Ambac's motion concerning the application of  
24 the automatic stay to the revenues securing PRIFA Rum Tax  
25 Bonds, and the Court will be entering an appropriate order

1      soon. So again, sit tight on the discovery dispute. We  
2      already have a briefing schedule and I will be entering an  
3      order.

4                So with that, I would call upon the Fee Examiner's  
5      counsel to present the fee-related matters.

6                Good morning, Ms. Stadler.

7                MS. STADLER: Good morning, Your Honor. Katherine  
8      Stadler of Godfrey & Kahn appearing on behalf of the Fee  
9      Examiner, Brady Williamson, who appears here today along with  
10     our Puerto Rico counsel, Eyck Lugo.

11               We have two fee-related matters on the Agenda. The  
12     first is the Fifth Interim Fee Period Applications Recommended  
13     for Court Approval. We filed our report on June 5th, last  
14     Wednesday. I am happy to report that since that filing, we  
15     have resolved a group of additional fee applications that were  
16     listed on Exhibit B as recommended for deferral but will be  
17     moved to Exhibit A for purposes of the entered order -- or the  
18     recommended order, I should say.

19               The listing of recommended applications in the Agenda  
20     that the Oversight Board filed earlier this week is the  
21     current listing of recommended fee applications. It includes  
22     those that have been resolved since the filing of our report  
23     last week, and I'm happy --

24               THE COURT: Ms. Stadler, apparently your voice is not  
25     coming through clearly to New York, so if you'd speak more

1      directly into the microphone, I'd be grateful.

2            MS. STADLER: Okay. Thank you.

3            THE COURT: Thank you. That should be better.

4            MS. STADLER: Okay. As I was saying, the list of  
5        the recommended applications on page two and three of the  
6        Agenda that the Court has before it for today's Omnibus  
7        listing is the recommendation for referral amount. It  
8        includes several that have previously been listed on Exhibit B  
9        as recommended for deferral, but happily I have resolved and  
10       we'll now recommend for approval along with the others.

11           That application period, as you know, brings us up  
12        through January of 2019, which means that some, not all, of  
13        the applications that have been recommended for approval today  
14        include the rate increase issue that we have discussed at  
15        length, both in court and in our documents.

16           We have worked with all of the interested parties and  
17        constituencies to reformulate the Presumption Standards Order,  
18        as it relates to rate increases, to further clarify that the  
19        purpose of the Order is a burden shifting goal. And that is  
20        to put professionals on notice that rate increases above the  
21        rate of inflation will be subject to additional scrutiny by  
22        the Fee Examiner and will require additional showing by  
23        professionals of a market-based reason for the increase.

24           The professionals understand that these are standards  
25        that have to be applied in the context of applications. They

1      cannot be applied prospectively. And they need to take into  
2      consideration the unique circumstances of every single  
3      timekeeper for every single professional working on these  
4      cases. And that number now, Mr. Williamson informed me  
5      yesterday, is over 1,400 individual timekeepers.

6           So to create a rule that applies uniformly to 1,400  
7      professionals of any category would be counterproductive in  
8      our opinion. And so the reformulated Presumptive Standards  
9      Motion -- Order seeks to clearly articulate the standards the  
10     Fee Examiner will apply, create a threshold for which the  
11     burden falls even more heavily on professionals to establish  
12     the reasonableness of their fees, but allows flexibility in  
13     the application, as is always necessary in any fee review  
14     process.

15           We worked with other interested parties. We went  
16     around many, many times with different formulations, and the  
17     version that we filed last week with our informative motion  
18     is, as I understand it, agreed by all of the interested  
19     parties who've been in communication with us.

20           So I'm happy to answer questions either about fifth  
21     interim applications or presumptive standards or anything else  
22     on the Court's mind.

23           THE COURT: Thank you, Ms. Stadler, and thank you for  
24     your written submissions. And I have reviewed the Fifth  
25     Interim Report and the schedules thereto. I've considered

1      them carefully, and the Fifth Interim Report, with its  
2      recommendations as brought up-to-date by your remarks here,  
3      and as reflected in the Agenda, is approved. And I will  
4      expect that you'll give me an updated order that will also  
5      terminate the resolved motions and bring up to speed the  
6      provisions for adjournment of the remaining applications that  
7      will be reflected on Exhibit B.

8                MS. STADLER: Yes. We will submit a proposed order  
9      this afternoon. Thank you.

10              THE COURT: Thank you.

11              And I'm also grateful for the extensive work that has  
12      clearly gone into revisitation of the Presumptive Standards  
13      Motion, which is -- well, the informative motion is docket  
14      entry number 7214. And I am persuaded that the revised  
15      presumptive standards address appropriately the concerns that  
16      the Court has raised concerning rate increases, and,  
17      therefore, I will enter the Revised Proposed Presumptive  
18      Standards Order.

19              MS. STADLER: Thank you, Your Honor.

20              THE COURT: Thank you. And thank you for being here.

21              Mr. Williamson, did you wish to make any remarks  
22      yourself?

23              MR. WILLIAMSON: Your Honor, thank you. Brady  
24      Williamson, Fee Examiner. There's really no need to  
25      supplement Ms. Stadler's comments on either the fifth interim

1       recommendations or on the Presumptive Standards Motion.

2                  With respect to the PREPA RSA, which is on the Agenda  
3 for later in the day, we may have some comments on that as  
4 well because of several specific provisions affecting  
5 professional compensation, but I'll defer those to the  
6 appropriate point.

7                  THE COURT: Thank you, Mr. Williamson.

8                  And so now we will turn to Agenda item III, which are  
9 the uncontested claims objections.

10                 Ms. Stafford. Good morning, Ms. Stafford.

11                 MS. STAFFORD: Good morning, Your Honor.

12                 THE COURT: And before you begin your remarks, I  
13 would like to address some issues that arose in the context of  
14 contested claim objections that appear to have implications  
15 concerning the reliability and credibility of the claims  
16 objection process. And I see that last night there was a  
17 document filed withdrawing several claims, but I do want to  
18 address directly the underlying issues.

19                 MS. STAFFORD: Yes.

20                 THE COURT: So specifically, several of the omnibus  
21 claim objections asserted that they were objecting to proofs  
22 of claim that were described as quote, exact duplicates. Each  
23 of those objections included a declaration of Mr. Herriman of  
24 the Alvarez and Marsal firm stating under penalty of perjury  
25 that the claims had been reviewed and analyzed in good faith

1 by people under his supervision. And he concluded that the  
2 claims assert the exact same liabilities. But then the  
3 motions prompted over a dozen responses that asserted that the  
4 claims were not, in fact, exact duplicates.

5 And my staff and I reviewed several of those proofs  
6 of claim and others that were alleged to be duplicates and  
7 found that many of them were asserted on behalf of children  
8 whose parents or other guardians have asserted claims against  
9 the Commonwealth for alleged violations of the Individuals  
10 with Disabilities Act and other related issues.

11 Last night, the objections to many such claims were  
12 withdrawn, but I am very troubled by these apparent errors in  
13 the identification of objectionable claims. If these  
14 claimants, their lawyers, or the Court had not noticed the  
15 debtors' mistakes, properly filed claims might have been  
16 disallowed, prejudicing the legal rights of allegedly disabled  
17 children and their parents or guardians, who are among the  
18 most vulnerable people.

19 That's simply inexcusable, given the responsibilities  
20 and the resources of the Oversight Board, and also raises  
21 serious issues about the underlying process and whether due  
22 care is being taken in the first instance in reviewing claims  
23 and putting forward claims objections. And so I would ask you  
24 now to give me an overview of the process and any changes in  
25 the process that are intended to be made going forward.

1           And I'll tell you, frankly, that I, at this point,  
2 would not be prepared to sign off on final orders without the  
3 filing of a certificate as to duplicate or amended claim  
4 objections, which certificate would declare that all of the  
5 claims have been re-reviewed and they are, in fact, actually  
6 duplicate or amended claims, whether or not there has been a  
7 response filed to them.

8           MS. STAFFORD: I completely understand Your Honor's  
9 concerns, and we were also concerned by the number of  
10 responses filed that asserted that claims identified as exact  
11 duplicates were not, in fact, exact duplicates. And after we  
12 saw the volume of those responses, we undertook to re-review  
13 all of the claims that had been identified as exact  
14 duplicates. And in the amended schedules that were filed last  
15 night, a number of claims were withdrawn from the objections  
16 which were not specifically identified by claimants who  
17 responded.

18           Mr. Herriman, who is here in the courtroom, I will  
19 call upon him to give us a bit of information about the  
20 process that we went through to re-review all of these claims.  
21 And we will make sure that we are reviewing the claims with  
22 greater care and certainty going forward.

23           THE COURT: I am glad to hear that, and I'd be  
24 grateful to hear from Mr. Herriman about the process now.

25           MR. HERRIMAN: Good morning, Your Honor.

1                   THE COURT: Good morning, Mr. Herriman.

2                   MR. HERRIMAN: For the record, Jay Herriman from  
3 Alvarez and Marsal.

4                   As Ms. Stafford noted, after receiving those  
5 objections, we went back through our processes and realized we  
6 had one reviewer who was not following our own processes. And  
7 the system typically looked at an exact duplicate claim,  
8 meaning someone took it on -- a claim, put it on a copy  
9 machine and copied it, and that would be our proof.

10                  In this case, one reviewer, in looking at litigation  
11 claims, specifically did not notice certain information had  
12 been changed. Literally, some of the time it was the  
13 children's initials that had changed, and in some cases we  
14 noticed they didn't pick up a change in the case number as  
15 well. So we're going back through that review for training,  
16 and also reaffirming with all of our reviewers, it literally  
17 needs to be a photocopy of the claim before we sign off an  
18 exact duplicate.

19                  Also, we're putting additional QC processes in claims  
20 to make sure an additional reviewer's spot checking the  
21 initial reviewer's work to make sure those things don't slip  
22 through again, Your Honor.

23                  THE COURT: Thank you.

24                  So as I said, I will need a certificate with the  
25 revised proposed order attesting to the accuracy of the claims

1      and the objections.

2            MR. HERRIMAN: Absolutely, Your Honor.

3            MS. STAFFORD: We'll be happy to provide those, Your  
4            Honor.

5            And with that, would you like any further information  
6            about the uncontested claim objections at this time?

7            THE COURT: I don't believe so. Let me just check.

8            No. I just -- I had that portfolio issue about the  
9            objections, and so having had a response to that portfolio  
10           issue, and subject to the filing of the certification, the  
11           uncontested claims objections are sustained and the subject  
12           claims will be disallowed. I'll enter the Order after the  
13           filing of the certification.

14            MS. STAFFORD: Thank you very much, Your Honor.

15            THE COURT: Thank you.

16            Just one moment. All right. And so this brings us  
17           now to the contested matters, which are at Agenda item IV, the  
18           first of which is the Puerto Rico Funds Motion to Vacate the  
19           Appointment of the Official Committee of Unsecured Creditors.  
20           We've allowed 20 minutes for the argument on that motion.

21            Good morning.

22            MR. CUNNINGHAM: Good morning, Your Honor. John  
23           Cunningham of White & Case on behalf of the Puerto Rico Funds.

24            Your Honor, in the ten minutes that I have, if I  
25           could reserve two minutes for rebuttal?

1                   THE COURT: Yes.

2                   MR. CUNNINGHAM: Thank you.

3                   Your Honor, the Puerto Rico Funds based here in San  
4                   Juan hold over three billion of the ERS bonds. And with  
5                   respect to our motion, Your Honor, let me make one thing clear  
6                   right off the bat. The sole relief my client seeks is an  
7                   order that the Commonwealth UCC cannot be the ERS UCC based on  
8                   the obvious irreconcilable conflict that such committee  
9                   members have as fiduciaries to creditors of both estates.

10                  And what is the conflict? It is undisputed, Your  
11                  Honor, at the behest of the Oversight Board, Commonwealth  
12                  legislature adopted Joint Resolution 188 and enacted 106,  
13                  mandating, as of July 2017, the dismantling of ERS, the  
14                  stripping of its assets, including ERS' stream of employer  
15                  contributions, and the diversion and siphoning of such assets  
16                  away from ERS into the Commonwealth's general funds.

17                  All of this unprecedented legislation and actions by  
18                  the Commonwealth against ERS occurred post petition in total  
19                  disregard of ERS' automatic stay and without any approval by  
20                  this Court. Your Honor, this utter destruction and plundering  
21                  of ERS and its assets by the Commonwealth of course has led to  
22                  a fight to the death by ERS creditors to recover ERS assets  
23                  for distribution to ERS creditors in this Title III case.  
24                  Predictably, the only ERS creditors to wage this fight have  
25                  been the ERS bondholders.

1           In the 22 months since the ERS UCC has formed, what  
2 has it done? What positions or actions has it taken to fight  
3 the Commonwealth to recover ERS assets for the benefit of ERS  
4 creditors?

5           The answer, absolutely nothing. It has sat idly by  
6 for almost two years and has not lifted a finger to engage in  
7 this fight. And there lies the conflict. The current members  
8 of the ERS UCC, being current members of the Commonwealth UCC,  
9 are completely incapable of taking an adverse position against  
10 the Commonwealth that could lead to assets coming out of the  
11 Commonwealth and back into ERS.

12           So how did we get this committee in the first place,  
13 which is comprised, again, solely of the Commonwealth UCC  
14 members? Well, the United States Trustee finally answered  
15 this question in its objection to our motion. It states that  
16 it solicited creditors of ERS for interest in serving on a  
17 committee.

18           And then on page ten, the United States Trustee  
19 admits, quote, No ERS unsecured creditors had been willing to  
20 serve on a committee. So rather than have no ERS UCC, the  
21 United States Trustee decided to appoint the Commonwealth UCC  
22 as the ERS UCC, irrespective of the conflict.

23           The United States Trustee, in the objection, says  
24 it's not clear that the ERS unsecured creditors would be  
25 better off with no representation by the committee. Your

1 Honor, that's wrong. We would rather have, and this estate, I  
2 would think, would rather have no UCC than a hopelessly  
3 conflicted UCC.

4 THE COURT: I'd like to go back to that "we would  
5 rather have" for a minute.

6 MR. CUNNINGHAM: Certainly.

7 THE COURT: You represent a constituency that claims  
8 secured creditors status. What gives you standing to complain  
9 about who, if anybody, represents unsecured creditors'  
10 interests?

11 And if your concerns regarding the motivations of the  
12 UCC are meritorious, why isn't it sufficient for you to offer  
13 them for consideration as to the validity and weight of  
14 positions actually advanced by the UCC?

15 MR. CUNNINGHAM: Your Honor, as a creditor, even as a  
16 secured creditor, we have standing to seek the relief that  
17 we're asking. And you'll hear I've narrowed the relief.  
18 We're asking for one specific section, 1102. And that's  
19 1102(a)(4).

20 And if I can get there, I'll explain that. But we do  
21 have standing, because that section says a party in interest  
22 can file the motion and relief that we're seeking.

23 So back to the motion, there has been much briefing  
24 back and forth on the powers of this Court to vacate a  
25 committee. We cited *Detroit*, similar cases saying you can.

1      They cited *Caesars*, similar cases saying you can't, but none  
2      of those cases are in the First Circuit.

3                And we would say, Your Honor, we can resolve this  
4      debate right now. Congress handed Your Honor the power to fix  
5      the ERS UCC members' irreconcilable conflict in section  
6      1102(a)(4) cited at page nine of our motion, and not cited at  
7      all by UCC, nor cited, though, the powers referenced by the  
8      United States Trustee. 1102(a)(4) was -- what I was just  
9      talking about, says, on request of party in interest and as a  
10     creditor of ERS, we are a party in interest, and after  
11     noticing a hearing, the Court may order the United States  
12     Trustee to change the membership of the committee appointed  
13     under the subsection if the Court determines the change is  
14     necessary to ensure adequate representation of creditors.

15               Your Honor, both the UCC and the United States  
16     Trustee cite the case of *ShoreBank* at 467 B.R. 156, and it  
17     provides a very good overview of the history of 1102(a)(4) and  
18     how it was added to the Bankruptcy Code in 2005, to make clear  
19     this Court has the power to order a change to committee  
20     composition to assure adequate representation.

21               THE COURT: I understand that the Court has the  
22     power, and that the power is directed to be used under  
23     circumstances where it's necessary to assure adequate  
24     representation, which is quite a high standard.

25               And so I would be grateful if you would, in some of

1      your remaining time, identify any actions that have been taken  
2      by the UCC that you contend are breaches of fiduciary duty to  
3      the unsecured creditors of ERS.

4                    MR. CUNNINGHAM: I think it's the inactions that have  
5      been taken by this committee, Your Honor. In the two years in  
6      place, they have filed four pleadings in this case, all of  
7      which address preservation of rights. Joinder of opposing ERS  
8      bondholders' adequate protection, and we in response to  
9      everything located -- 179, 231, 280 and 296, all before they  
10     started to get active in March of this year.

11                  Why did they start to get active? Why did they wake  
12     up from their slumber? The answer I submit is simple.  
13     Because at the end of January, the First Circuit found ERS  
14     bondholders have perfected security interest in this case.  
15     And in the beginning of February, we filed a motion to seek  
16     the appointment of a trustee under Section 926 to recover the  
17     assets that I just described have been sent to the  
18     Commonwealth, which occurred post petition, which we believe  
19     that the estate of ERS should seek to recover.

20                  We ultimately settled with the Oversight Board and  
21     the Commonwealth to have a tolling agreement in place, which  
22     Your Honor approved. But none of that was done by this  
23     committee. But once they saw that we are back to active, and  
24     most importantly that we have filed our claims, you know,  
25     again, a total of three billion -- I think between our group

1      and the Jones Day group, we have close to two-thirds of that.  
2      We have filed taking claims in the Commonwealth case, an  
3      administrative claim we submit because it all took place post  
4      petition. But that's a very real threat to the unsecured  
5      creditors of the Commonwealth, and for this committee to act.

6           So they've now awoken from their slumber and have  
7      started taking action against our claims, which is fine  
8      because, at the end of the day, the claim that they are  
9      asserting has already been asserted by the Commonwealth. It's  
10     an alleged claim that our bonds are *ultra vires*.

11           This was asserted by the Commonwealth in the Motion  
12     to Dismiss before Your Honor on the taking claim. The UCC for  
13     the Commonwealth never intervened in that action, took those  
14     claims, repackaged it and filed the objection here in this  
15     case. This isn't about -- to avoid that objection.

16           The Retiree Committee has also done a copycat  
17     objection, so Your Honor's going to deal with that objection.  
18     We're going to deal with it --

19           THE COURT: I need you to wrap up.

20           MR. CUNNINGHAM: So in our view, again, the emperor  
21     has no clothes here in that this is a very real conflict, and  
22     both the *ShoreBank* case, which did say that lack of adequate  
23     representation would include conflicts which show a breach of  
24     fiduciary duties or likely breach -- we think any action by  
25     this committee to fulfill fiduciary duties to recover assets

1      to -- for ERS to pay ERS creditors is going to violate its  
2 fiduciary duties to the Commonwealth, to the extent the  
3 Commonwealth is in the cross hairs, which it clearly is, Your  
4 Honor.

5                THE COURT: Thank you.

6                MR. CUNNINGHAM: Thank you.

7                THE COURT: Good morning.

8                U.S. TRUSTEE LECAROZ ARRIBAS: Good morning, Your  
9 Honor. Monsita Lecaroz on behalf of the U.S. Trustee and  
10 Department of Justice.

11               Good morning, everyone.

12               THE COURT: Good morning, Ms. Lecaroz.

13               U.S. TRUSTEE LECAROZ ARRIBAS: Your Honor, I wanted  
14 to reiterate our objection to the Puerto Rico Funds request.  
15 We understand our objection stands on its own. However, given  
16 the Puerto Rico Funds Reply, I wanted to clarify that at no  
17 time did the U.S. Trustee imply that there was no ERS creditor  
18 in the committee. We did not affirmatively include it as an  
19 argument because we understand that our other arguments under  
20 1102, on their own warrant that the Puerto Rico Funds request  
21 be denied.

22               We also wanted to assert the U.S. Trustee's interest  
23 in and monitoring of the Official Committee's performance and  
24 composition, which could undergo changes if we deemed it  
25 necessary. And we would have done so, so far, if it had been

1      deemed necessary.

2                 Your Honor, we take our statutory duty very  
3 seriously, and we believe it should not be entrenched upon.  
4 Thank you.

5                 THE COURT: Thank you.

6                 Mr. Despins.

7                 MR. DESPINS: Good morning, Your Honor. Luc Despins  
8 with Paul Hastings on behalf of the Official Committee.

9                 Briefly, I will address some of the points that were  
10 just made. The first thing is that it seemed to be a switch  
11 in the relief that was sought. The motion clearly said it's a  
12 motion to vacate the appointment of the committee as ERS'  
13 committee. Changing those words doesn't make the relief  
14 different.

15                 Again, I think you focused on it, and that's the  
16 right analysis, which is I've never seen a case where a  
17 secured creditor is heard to get a committee to be disbanded  
18 for the simple reason that, we're natural enemies. That's the  
19 nature of the beast. And of course, every secured creditor by  
20 definition wants a committee to be eliminated.

21                 What I would address very briefly, because in the  
22 Reply they raise an issue, which is there is no evidence that  
23 SEIU has the mantle, if you will, to represent these employees  
24 that are members of SEIU.

25                 And I want to cite very briefly to Puerto Rico Law,

1      Chapter 51(a), Labor Relations, Public Service Section  
2      1453(g), that says that every duly certified exclusive  
3      representative, which SEIU is pursuant to a collective  
4      bargaining agreement, may sue or be sued and appear as  
5      plaintiff or defendant before the commission, the courts of  
6      justice, et cetera, as an entity or as the representative of  
7      its members.

8                And if you look at the list of creditors that the  
9      Commonwealth -- or that the Oversight Board filed for ERS,  
10     there are thousands and thousands of SEIU members that are  
11     listed as ERS creditors. So I think that resolves the issue.

12               We don't think there's a need to have a member of the  
13     committee be an ERS creditor, but in the event we have one  
14     and, you know, we -- other than this alleged inaction, which  
15     frankly, we don't follow, everything the Committee has done  
16     has been to protect the interests of unsecured creditors of  
17     ERS and to address the issue of how do we awaken from her  
18     slumber.

19               The point is these bonds are non-recourse, Your  
20     Honor. If Your Honor ruled, and actually you did rule, that  
21     effectually their collateral was nil or close to nil, that was  
22     game over. Unfortunately, from our point of view, the First  
23     Circuit reversed, so there was no need to go after the  
24     underlying bonds until the First Circuit reversed.

25               So yes, I would like to file these complaints all the

1      time. It's good money. But the point is why do that if  
2      there's a ruling by the Court that the collateral -- there's  
3      no collateral. At that point, there's no need to do that.

4               Yes, First Circuit reversed. At that point we needed  
5      to go and assert those claims to avoid the bonds themselves --  
6      it's why we took that time. It's not because we didn't think  
7      about it before. It's because it didn't make sense to do that  
8      before.

9               Thank you, Your Honor.

10          THE COURT: Thank you.

11          Mr. Cunningham.

12          MR. CUNNINGHAM: Your Honor, briefly, our motion to  
13      vacate is as to this committee. And we would, as I said,  
14      modify that because we cited 1102(a)(4) to have Your Honor  
15      simply order the removal of the Committee members, and if the  
16      United States Trustee -- because there's a top 20 list that I  
17      assume they've looked at of other unsecured creditors.  
18      There's other claims that have been filed. If they want to  
19      appoint our committee members to this committee, we have no  
20      problem with that. We are not trying to eliminate the UCC.

21          THE COURT: But given our current situation where the  
22      UCC has been appointed for the Committee for ERS and your  
23      request that I direct the U.S. Trustee to change the  
24      composition of the Committee for ERS to include only ERS  
25      creditors, you're either asking me effectively to direct the

1      U.S. Trustee to appoint a stacked committee for ERS, or you're  
2      asking me to direct the U.S. Trustee to gut the current UCC,  
3      load it with ERS people, whereupon the Commonwealth and HTA  
4      unsecured creditors will complain that everything is stacked  
5      against them.

6           So I don't really see a practical difference in your  
7      request for relief. I think it always comes down, still, to  
8      an attack on the appointment of the committee as it has been  
9      done for ERS.

10           What am I missing?

11           MR. CUNNINGHAM: Your Honor, six of the members --  
12      you just described -- six of the members of the UCC admittedly  
13      have no claims against ERS. Why is that the case? I mean,  
14      that you're having unsecured creditors or not even ERS  
15      creditors -- and this is not a multi-debtor case with  
16      affiliated entities that they try to cite.

17           ERS is a trust, and the only reason the  
18      instrumentality is -- it was created by statute, but it  
19      doesn't mean they get to import some other creditors'  
20      committee. And some other creditors don't even have claims  
21      against ERS. If you're going to do that, borrow the  
22      creditors' committee -- at least there won't be any conflict,  
23      the one creditors' committee counsel just mentioned, SEIU,  
24      that, I understand, Your Honor, has held they are creditors of  
25      ERS for purposes of filing under that 906. However, Your

1 Honor hasn't made a determination of whether they can  
2 adequately represent the unsecured creditors in this case.  
3 Given then again they labor under both concepts, they wear  
4 both hats, but now, as we heard this morning, their mantle, as  
5 he calls it, is to protect the retiree benefits.

6 Well, the retiree benefits here, which we just  
7 described under this proposed deal, are going to have a range  
8 of recoveries under those creditors between 91 percent and --  
9 Your Honor, the maximum discount is eight and a half percent.  
10 And ironically, you hear the government -- Governor and  
11 Commonwealth say it's not enough.

12 In the meantime, all other ERS creditors, whether ERS  
13 bondholders or other trade or other vendors that Mr. -- now,  
14 in his pleading he says, we are left for road kill in terms of  
15 this case --

16 THE COURT: Please wrap up.

17 MR. CUNNINGHAM: We think the focus has to be on the  
18 issue of conflict. If I can add this one last point, Your  
19 Honor.

20 THE COURT: Yes.

21 MR. CUNNINGHAM: We cited and made mention of the  
22 *Venturelink* case, the case predicated 1102(a)(4), by Judge  
23 Felsenthal years ago, dealt with a committee counsel and  
24 removal of the chairman of a committee based on a conflict.  
25 And at that time, without 1102(a)(4), it looked at whether the

1      trustee actions were arbitrary and capricious because of  
2      claims against that former board member, chairman of the  
3      board, with respect to monies that had flowed just prior to  
4      the case and its removal. And the judge thought that that was  
5      the appearance of a conflict.

6                And the Court, in granting the -- in ordering the  
7      removal, said -- this is 299 B.R. 420 at page 423. This Court  
8      has held that a conflict of interest that amounts to a breach  
9      of that fiduciary duty constitutes the type of conflict that  
10     would mandate removal of the creditor from the committee. The  
11     Court adds, the appearance of a breach of that fiduciary duty  
12     should likewise mandate a removal. The bankruptcy process  
13     must be fair and appear fair.

14               We don't believe having the aggressors, Unsecured  
15     Creditors' Committee, Commonwealth Committee, be the  
16     Creditors' Committee for ERS, sets up a process that is fair  
17     and appears fair in the largest municipality bankruptcy case  
18     here. We don't believe, analogous to HTA and PREPA, because  
19     they have their Oversight Board, creditors, and they can raise  
20     whatever claims they make -- they didn't have the  
21     post-petition legislation we had, Your Honor.

22               THE COURT: Thank you.

23               MR. CUNNINGHAM: Thank you.

24               THE COURT: Before the Court is the Motion of the  
25     Puerto Rico Funds to Vacate the Appointment of the Official

1      Committee of Unsecured Creditors in the ERS case. That motion  
2      is docket entry number 6162 in the 17-3283 jointly  
3      administered case; and docket entry 433 in the ERS case, which  
4      is 17-3566. And I will refer to it as "the Motion."

5                In the Motion, the Puerto Rico Funds request entry of  
6      an order vacating the appointment of the Official Committee of  
7      Unsecured Creditors in ERS' Title III case. And I'll refer to  
8      that committee as "the Committee."

9                Alternatively, the Puerto Rico Funds argue that the  
10     Court should reconstitute the Committee's members in the ERS  
11     case to be comprised solely of members holding unsecured  
12     claims against ERS. And the Court has carefully considered  
13     all of the written submissions and listened carefully to the  
14     arguments made in court today.

15               At the outset, the Court notes that there is a  
16     question as to whether, as putative secured creditors of ERS,  
17     the Puerto Rico Funds are properly in a position to attack the  
18     membership of an unsecured creditors' committee. And this is a  
19     point to which the U.S. Trustee also alluded in her  
20     submission, docket entry number 7129.

21               Putting that question aside, and for the following  
22     reasons, the Court concludes that it does not possess the  
23     authority to disband the Committee under Sections 1102 and 105  
24     of the Bankruptcy Code. And as to the Movants' request that  
25     the Court reconstitute the Committee, or direct the

1      reconstitution of the Committee, the Court finds that the  
2      Puerto Rico Funds have failed to demonstrate that such a  
3      change is necessary to ensure adequate representation of  
4      creditors as required by Section 1102(a) (4) of the Bankruptcy  
5      Code. The Motion is therefore denied.

6                 Section 1102(a) of the Bankruptcy Code governs the  
7      formation, appointment, and modification of official  
8      committees. The powers set forth in that section are the only  
9      powers over committees that the Code gives to the Court, and  
10     nothing in Section 1102(a) confers on the Court the power to  
11     disband a committee appointed by the United States Trustee  
12     under Section 1102(a) (1).

13                Furthermore, Section 105 of the Code, 105(a), is  
14     neither an independent source of rights, nor a source of  
15     substantive authority. And the Court does not find in Section  
16     105(a) a source of authority to grant the relief requested by  
17     the Puerto Rico Funds.

18                *In Re: City of Detroit*, 519 B.R. 673, (Bankr. E.D.  
19     Mich. 2014), which I'll refer to as *Detroit*; and *In Re:*  
20     *Pacific Avenue, LLC*, 467 B.R. 868, (Bankr. W.D. N.C. 2012),  
21     which I'll refer to as *Pacific Avenue*, are not persuasive as  
22     to the existence of court authority to vacate the appointment  
23     of an official committee.

24                The *Detroit* decision is based in part on the  
25     applicability of Section 1102(a) to proceedings commenced

1      under Chapter Nine of the Bankruptcy Code. Here, Section  
2      301(d) of PROMESA provides that a reference to this title,  
3      this chapter, or words of similar import in a section of Title  
4      11 of the United States Code, shall be deemed to be a  
5      reference to Title III of PROMESA.

6           Thus, the reference in Section 1102(a) to an order of  
7      relief under Chapter 11 of this Title is deemed to be a  
8      reference to PROMESA Title III and requires the appointment of  
9      a Committee of Official Unsecured Creditors after the Court  
10     Order for Relief in the Title III case. Thus, the reasoning  
11     in *Detroit* regarding the inapplicability of Section 1102(a) to  
12     Chapter Nine proceedings is not instructive in these Title III  
13     proceedings.

14           The Court further concludes that Section 105(a) of  
15     the Bankruptcy Code does not empower the Court to disband an  
16     official committee appointed by the United States Trustee  
17     under Section 1102(a), and therefore, declines to adopt the  
18     *Detroit* Court's Section 105(a) analysis.

19           The *Pacific Avenue* Court's reasoning regarding  
20     Section 105(d) is similarly unconvincing. Particularly since  
21     the committee appointment in that case had been made by the  
22     Court in the first instance in the absence of a U.S. Trustee  
23     program. The motion is therefore denied insofar as the Puerto  
24     Rico Funds' request that the Court disband the committee that  
25     has been appointed in ERS' Title III case.

1           As to the alternative request, the movant's request  
2 that the committee's membership be reconstituted to be  
3 comprised solely of members holding unsecured claims against  
4 ERS, Section 1102(a)(4) of the Bankruptcy Code, incorporated  
5 into PROMESA, permits the Court to order the United States  
6 Trustee to change the membership of a committee appointed  
7 under this subsection if the Court determines that the change  
8 is necessary to ensure adequate representation of creditors.

9           The Puerto Rico Funds have not demonstrated that a  
10 change in the membership of the committee is necessary to  
11 ensure adequate representation of unsecured creditors in the  
12 ERS case. The alternative relief sought by the Puerto Rico  
13 Funds would effectively result in a direction from the Court  
14 to the U.S. Trustee to create a separate unsecured creditors  
15 committee for ERS. That is an extreme remedy that could  
16 generate significant transaction costs for all creditors  
17 involved in the ERS case.

18           As the U.S. Trustee and the Committee have noted in  
19 their submissions, a single committee is frequently appointed  
20 in large multi-debtor cases to represent the unsecured  
21 creditors of related debtors whose cases are being jointly  
22 administered. These committees often consist of creditors  
23 with a variety of viewpoints, and mere conflict of members of  
24 an official committee is not a basis for modification of  
25 committee membership in the absence of specific evidence that

1 committee members have breached fiduciary duties.

2 Movants have not persuaded the Court of any actual  
3 breach of fiduciary duty on the part of the Committee, nor  
4 have Movants demonstrated that an insurmountable conflict  
5 exists among Committee members. For this reason, the Motion  
6 is denied.

7 Arguments regarding the potential conflicts on the  
8 part of the Committee or individual members, where relevant,  
9 can be raised and considered in context as the Committee takes  
10 positions in these Title III proceedings. And the Court will  
11 enter an order reflecting this decision.

12 Thank you, Counsel.

13 The next contested item is the Committee's Motion to  
14 Establish Procedures Regarding the Omnibus Objection to the  
15 Claims of the ERS Bondholders, and before I hear from counsel,  
16 I have some remarks.

17 So I observed on Monday night that Mr. Despins filed  
18 an informative motion addressing a request from the Retiree  
19 Committee that its claim objection from April 23rd should be  
20 consolidated procedurally with the claim objection procedures  
21 that are before the Court today. And last night the ERS  
22 Bondholder Group, represented by Jones Day, filed a response  
23 to that informative motion.

24 Given that the Retiree Committee's Omnibus Objection  
25 was filed nearly two months ago, it should be no surprise that

1      I was not expecting a new filing and a description of a  
2      dispute in an informative motion at the 11th hour before this  
3      hearing. In the future, when such issues arise, I anticipate  
4      that you will coordinate among the interested parties in a  
5      timely fashion and submit a proposal to the Court for the  
6      orderly presentation of the application, including briefing of  
7      any disputes that cannot be resolved consensually. And that  
8      will allow disputes, like the one that appears to continue  
9      here, to be considered and resolved in an orderly and  
10     efficient manner.

11           There's no good reason to have to deal with  
12     procedural issues like this on the fly. And I don't believe,  
13     given the objections that the ERS Bondholder Group has  
14     previewed in the Response filed last night, that it would be  
15     an efficient use of resources to address these issues today.  
16     And I suggest that the parties meet and confer to try to work  
17     out the issues, and if disputes remain, the parties should  
18     work out a joint proposal for orderly briefing of the issues  
19     regarding coordination with the Retiree Committee's  
20     objections.

21           I have to point something out about the proposal that  
22     does exist, however broad or narrow it ends up being. I will  
23     require one change. The Revised Proposed Order that is on the  
24     books now includes two provisions under which certain filings  
25     in any given matter will be deemed filed in other contested

1      matters and/or adversary proceedings. It sounds like  
2      something that will be easy for counsel and work really well  
3      for counsel, but it's entirely unworkable for the Court. So  
4      any filing that is expected to be considered in multiple  
5      matters must reflect all the relevant captions and be filed in  
6      each relevant matter.

7                 So my proposal is that we adjourn this matter so that  
8      you can work out an agreement and/or an orderly briefing of  
9      the issues regarding coordination, so I can resolve it on  
10     submission. Does anyone want to be heard on this?

11                MR. DESPINS: No, Your Honor.

12                THE COURT: All right. So we will mark this as  
13     adjourned to the July Omni, but I will expect that I'll have  
14     either an agreement or briefing substantially in advance of  
15     the July Omni. Thank you.

16                Just one moment. Yes. So now Agenda Item IV.3 is  
17     the Debtors' Motion to Amend the Omnibus Objection Procedures.

18                MS. STAFFORD: Good morning again, Your Honor.

19                THE COURT: Good morning.

20                MS. STAFFORD: Laura Stafford from Proskauer Rose on  
21     behalf of the Financial Oversight and Management Board.

22                As Your Honor knows, there are well over 300 thousand  
23     claims pending on this basis, and it isn't individual claims.  
24     It would be overburdensome to the Court and, frankly, the  
25     debtors themselves, to file objections to the docket on that

1      number of claims. That's why we sought the modification of  
2      procedures last fall, and now that we've identified issues  
3      with many of the claims, we're here to file substantive  
4      procedure objections as well.

5                These procedures were developed in confirmation and  
6      coordination with the Court's office staff and we believe  
7      represent an efficient means of handling the large number of  
8      claims pending in this case, while preserving claimants' due  
9      process rights.

10               THE COURT: May I ask you to speak just a little  
11      slower?

12               MS. STAFFORD: I'm sorry.

13               THE COURT: Thank you.

14               MS. STAFFORD: The claimants receive information via  
15      the Omnibus objections sufficient for them to understand  
16      factual and legal bases on which there's objecting to their  
17      claims. The primary objection raised by the Committee to the  
18      motion is the motion should be adjourned until an ADR motion  
19      has been filed.

20               We filed an ADR motion last Wednesday. It is  
21      currently set for hearing at the July 24 Omnibus. There is no  
22      reason, in our view, to delay this motion and further delay  
23      the ability to reconcile claims against them during the six  
24      weeks while that other motion will be pending.

25               The Committee's other objections highlight concerns

1      about evidentiary issues, all of which we believe are better  
2      suited to be considered by the Court in the context of  
3      individual objections to individual claims. To begin, the  
4      Committee objects that the procedures purportedly put the  
5      evidentiary burden on the creditor instead of debtors. The  
6      procedures don't purport to do anything of the sort.

7                And it appears the Committee is concerned they will  
8      be boilerplate, that statements will parrot on which we seek  
9      objections, but that is not the case. The debtors will  
10     provide enough information to understand what the bases for  
11     their objections may be.

12               For example, for a books and records objection, we  
13     would indicate that the debtors' books and records suggest  
14     that an invoice of a certain amount was provided and a payment  
15     was made on a certain date by a certain check. That  
16     information we believe is sufficient to provide the claimants  
17     with enough notice of the evidence being presented against  
18     them.

19               To the extent Your Honor has concerns about the  
20     sufficiency of any of those bases for an objection, that we  
21     believe is a question for the Court to consider at a hearing  
22     on the objection and not a basis to deny our ability to  
23     proceed with an Omnibus objection at all.

24               With respect to the specific additional substantive  
25     grounds to which the Committee objects, we'd submit all three

1      of these grounds are very common grounds on which to object to  
2      claims in bankruptcy cases, especially in large, complex cases  
3      such as this one. As we noted in our papers, certain  
4      districts even permit these types of grounds for substantive  
5      Omnibus objections in their rules.

6                  With respect to the -- I'll just briefly note the  
7      three substantive grounds that the Creditors' Committee has  
8      objected to. With respect to the books and records objection,  
9      as I noted before, we intend to include pertinent information  
10     from the debtors' books and records, and creditors of course  
11     will retain the right to object and present their own evidence  
12     in response.

13                With respect to the unliquidated claim basis, the  
14     Creditors' Committee appears to be objecting on the basis that  
15     a claim cannot be disallowed solely on the basis it is  
16     unliquidated. But as we noted in our papers, that's not what  
17     we're seeking to file, an objection, on an Omnibus basis, such  
18     that those claims can be limited in order to determine whether  
19     and to what extent allowed.

20                And with respect to the final substantive basis that  
21     the Creditors' Committee has challenged, which is the no  
22     liability basis, I would submit that is a very common basis on  
23     which to make Omnibus objections in large bankruptcy  
24     proceedings. And it's particularly necessary here where  
25     thousands of claims have been filed that assert liabilities

1      that certainly are not properly asserted against the debtors,  
2      or estate, because bonds arise out of other entities unrelated  
3      to Title III debtors --

4                THE COURT: And again, would you expect to lay that  
5      out clearly in the objection to claim?

6                MS. STAFFORD: We certainly would, Your Honor.

7                THE COURT: Now, the proposed procedures include a  
8      per motion cap that's substantially higher than a cap that I  
9      understand was discussed with the Administrative Office, and  
10     it raises logistical concerns both at the Clerk's Office level  
11     and, frankly, at the level of my very limited staff in terms  
12     of preparing for Omnibus Hearings. And so with a cap of 30  
13     omnibus objections for any single omni and the cap of 1,000  
14     claims per motion, we could see up to 30,000 claims that are  
15     the subject of substantive objections being cued up for a  
16     single omnibus hearing. And that -- and it makes me shudder.

17               So at what rate, as a practical matter, do you  
18      contemplate you would be filing objections under these  
19      procedures? And I'd like your thoughts on how you would  
20     intend to manage the process to avoid overburdening a single  
21     hearing, such as by seeking to adjourn hearings on objections  
22     that receive substantial responses, or some other techniques  
23     to help me out here.

24               MS. STAFFORD: Completely understood, Your Honor.  
25      And I think one of the challenges that we face is that our

1      ability to put single Omnibus objections together that cover  
2      500 or even a thousand claims at a time is somewhat difficult.  
3      And as you'll notice, a number of the Omnibus objections that  
4      are scheduled for hearing today, some of them meet the cap of  
5      500, but many are well below and have more along the lines of  
6      23, or seven, or -- at a low, seven claims per objection.

7           So even though we are hoping to set up to 30  
8      objections per hearing, we understand that it's unlikely that  
9      there will be up to 30,000 claims that will actually be heard  
10     in any given hearing because of the way we need to bring  
11     claims across Omnibus objections. So we're hopeful we never  
12     are in a position where 30,000 claims are heard at a single  
13     hearing.

14           We're happy to consider, when appropriate, to adjourn  
15     hearings if we receive a large number of responses, especially  
16     that some of these are substantive responses, bases that need  
17     to be dealt with over a longer period of time. So we're happy  
18     to work with the Court when it comes to finding a way to make  
19     it as manageable as it can be.

20           THE COURT: I appreciate that.

21           MS. STAFFORD: Yes.

22           THE COURT: And I have one other question for you.  
23     You indicated in your papers that there are certain types of  
24     claims or issues that you think would not be amenable to the  
25     ADR process that you've proposed in connection with the July

1       Omni. Can you elaborate on such categories of claims?

2                  MS. STAFFORD: Those would include bond claims,  
3 principally claims arising out of funded indebtedness. Those  
4 are the types of claims we don't necessarily deem appropriate  
5 for ADR procedure, which we are hoping to work with and deal  
6 with vendor claims and accounts payable type claims.

7                  THE COURT: Thank you.

8                  MS. STAFFORD: Thank you.

9                  THE COURT: Mr. Despins.

10                 MR. DESPINS: Your Honor, we filed a limited  
11 objection and it's based on two issues really. One, there was  
12 no AD -- before this draft motion was combined with an ADR  
13 procedure, these two were separated. Now we see the ADR  
14 motion, and we say in our objection, paragraph one, that we  
15 don't agree with that structure.

16                 And you might say, well, that's not before me; we'll  
17 deal with that later. That's fine. We just wanted you to  
18 know that something along the lines of something like the  
19 Detroit bankruptcy, with mediation and arbitration -- and to  
20 put a fine point on this, arbitration with people based in  
21 Puerto Rico that have legal training in Puerto Rico and that  
22 speak Spanish. The reason for that, Your Honor, is simple. I  
23 don't know if you remember this. You probably remember this.  
24 I remember in New York there was a COFINA claims objection.  
25 The claimant was here in Puerto Rico. And you were very

1      patient, and this is a claimant that said they owned land  
2      around COFINA --

3                THE COURT: Yes.

4                MR. DESPINS: -- but there was no land. But anyway,  
5      the point is that was just a vignette or a little example of  
6      that multiplied by hundreds of thousands of what's going to  
7      happen. And in that context, not having at first local  
8      arbitrators I think will be a real impediment, but at the end  
9      of the day, that's your call. Meaning I have no legal tools  
10     to make that happen over my -- we have no -- we raised that  
11     with the Board. They rejected it. So I'll move on, but I  
12     think it would help address a lot of the issues I am about to  
13     address in a second.

14               THE COURT: Well, in connection with the continuation  
15     of the procedures in July, I'll invite you to, if you wish,  
16     use your briefing argument space to explain how you would  
17     anticipate coordinating the logistics of soliciting informed  
18     consents and waiver of judicial processes by people to go into  
19     a binding arbitration proceeding in the first instance, and,  
20     you know, the transaction costs of that sort of approach in  
21     addition to recruiting and managing arbitrators and how that  
22     could happen. I'd be happy to hear that, but not --

23               MR. DESPINS: No. No. We can do that, and it's been  
24     done in other cases before.

25               So now let me turn to the motion itself, and I would

1 say that generally this is -- I will stipulate this is a  
2 standard motion, but the problem is this is not a standard  
3 case. And we heard this morning from Your Honor about just an  
4 issue, very simple, what is a duplicative claim; what is not a  
5 duplicative claim; and whether, when we're dealing with a  
6 books and records objection -- and let's be clear about that.  
7 A books and records objection is something that lawyers like  
8 me created. There's nothing like that under the Rules. It is  
9 necessary to deal with the claims, and practically, it's a  
10 burden shifting device.

11                 And the first question with books and records  
12 objections -- Alvarez & Marsal is a good firm, but I guarantee  
13 you they don't have all the books and records of the  
14 Commonwealth. In fact, the Oversight Board spent millions of  
15 dollars for an investigation to investigate where is the cash.

16                 If it takes you millions of dollars to investigate  
17 where is the cash in the Commonwealth, and we know that the  
18 Commonwealth's books and records for 2017 have not been  
19 finished yet, they haven't been audited -- so the point we're  
20 making, Your Honor, is that -- I know you said, will you put  
21 more than books and records, and I said yes, of course we  
22 will. We have severe doubts that that can be accomplished,  
23 and that's why a more informal arbitration process -- that's  
24 why I'm not combining the two.

25                 I know it's not before Your Honor, but with respect

1      to people who understand how the government works and local  
2      laws and all that, it would be much more beneficial. But  
3      again, I can tell you in other cases, books and records  
4      objections have been approved. I filed them when I  
5      represented debtors. So I can't tell you it's not been done,  
6      but on the record here, where there's been no auditing of  
7      books and records we're talking about, and the fact that we  
8      know that one of the -- in PROMESA, it talks about lack of  
9      transparency. I'm not making that up. It's in the statute.  
10     It's because of these issues.

11                And you might say, well, we can deal with that when  
12          the objection process actually unfolds, but the reasons are --  
13          I'm concerned we won't be there at that point. Why? Because  
14          we can't represent individual claimants. That's not our job.  
15          We represent claimants as a whole.

16                So who is going to watch out for these people, the  
17          pro se people? That's why I'm raising now --

18                THE COURT: So who would be watching out for them in  
19          individual arbitrations?

20                MR. DESPINS: Neither, but I think there a level  
21          of -- or the Committee believes there will be a greater level  
22          of comfort because, one, it's going to be done with people  
23          that have a legal background in Puerto Rico law and that have  
24          the experience of dealing with Puerto Rico claims involving  
25          the government. That is the goal or the -- that's the belief

1      at least, that it would be more beneficial to those claimants.

2      At least they will perceive it to be more beneficial to them.

3            Whether at the end of the day it accomplishes a  
4 result, I don't know, Your Honor. But it's true we're not  
5 going to represent them in arbitration either. But we do have  
6 concerns to applying the typical big Chapter 11 rules to this  
7 process, and that's what we are communicating to the Court,  
8 Your Honor.

9            THE COURT: And of course the Court is also sensitive  
10 to not only the volume of claims but the nature of objections  
11 and nature of claims; and at the end of the day, the Court  
12 will have to determine whether whatever the Oversight Board  
13 has offered up in the claims objection is sufficient to rebut  
14 prima facie validity of the case. This is not -- of the  
15 claim. You know, it will be me. It's not a machine.

16           So, these things have to be taken into account and  
17 considered at all levels, and no matter of mechanism -- the  
18 boards aren't shifting. There may be reasons for me to  
19 scrutinize more carefully or be more concerned on the front  
20 end of what's being offered up in the way of context in the  
21 way of claims objections, but I want to assure you and  
22 everyone listening that this -- the Court is not considering  
23 any of these claims objections procedures rubberstamp  
24 procedures. And as you heard this morning, the Court  
25 specifically raised the concern and had in mind the concern

1      before the withdrawal of the duplicate problem claims, you  
2      know, the fact that it didn't seem to be working. And so the  
3      Court is putting that to the test.

4            MR. DESPINS: It puts a huge burden on the Court, but  
5      I was very pleased to hear what you said. There is no doubt  
6      about that. It puts a huge burden on the Court.

7            THE COURT: Don't I know it.

8            MR. DESPINS: But again, this was on cookie cutter  
9      stuff. Now, going to the next level, pro se claimants, we're  
10     just concerned about that.

11          THE COURT: Thank you. I hear you.

12          Anything further, Ms. Stafford?

13          MS. STAFFORD: Just briefly, Your Honor. We  
14     appreciate that it does put some burden on the Court, and we  
15     also appreciate the concerns that the Court had with the  
16     previous claims. Okay. And I think our willingness to go  
17     back and re-review the claims and confirm that the claims that  
18     we've put on our objections are in fact exact duplicates,  
19     that's exactly the same level of concern and care that we plan  
20     to take as we move through these substantive objections as  
21     well.

22          THE COURT: Thank you.

23          MS. STAFFORD: And would you like to proceed on to  
24     the remaining contested motions as well?

25          THE COURT: Well, I should rule on this I suppose.

1 MS. STAFFORD: Yes.

2 THE COURT: So this Motion for Entry of an Order  
3 Approving the Amended Omnibus Objection Procedures and for the  
4 relief, which is docket entry number 7051 in the 3283 case,  
5 referred to as the motion, is before the Court. And the Court  
6 has considered carefully the requested relief and the parties'  
7 written and oral argument and finds that the proposed relief  
8 is appropriate under the circumstances.

9 The procedure will enable the debtors to resolve  
10 efficiently tens of thousands of claims, and will thereby  
11 reduce the transaction costs of the claims resolution process  
12 significantly. The Court acknowledges the concerns expressed  
13 by the UCC concerning the need for fair and efficient  
14 alternative dispute resolution procedures, and as we have all  
15 noted, there are proposed ADR procedures scheduled to be  
16 addressed at the July 24, 2019, Omnibus hearing. And the  
17 Committee has also raised legitimate concerns regarding the  
18 need for debtors to meet their burden of overcoming the prima  
19 facie validity of properly filed proofs of claim and the need  
20 to protect the legitimate rights of every claimant.

21 The Court has reviewed the procedures carefully,  
22 those being the amended Omnibus objection procedures, and  
23 finds that the proposed procedures do not change the  
24 allocation of the burden of proof. Each properly filed proof  
25 of claim will retain its prima facie validity pursuant to

1      bankruptcy three -- 3000(f), and the Oversight Board will have  
2      the burden of coming forward with evidence or legal argument  
3      sufficient to overcome the presumption of *prima facie*  
4      validity.

5                The claimants will have the same right to the Omnibus  
6      claims related to this Order as they would have with respect  
7      to an ordinary individual claim objection. And individuals  
8      with claims in these Title III cases will have the ability to  
9      submit supporting evidence and legal arguments in defense of  
10     their claims.

11              The Committee has suggested the procedure should  
12     advise claimants of their right to seek discovery concerning  
13     the objection to their claims. The Court declines to single  
14     out that aspect of bankruptcy procedure for inclusion in  
15     notices to claimants. Claimants represented by counsel should  
16     not need that reminder, and capturing the conceptual and  
17     operational aspects of discovery and notice materials would  
18     unduly lengthen those documents.

19              The process will be subject to supervision and  
20     oversight by the Court, which will ensure that the process is  
21     fair, transparent and efficient. The procedures streamline  
22     the claims resolution process in a manner that is common in  
23     complex bankruptcy cases, and such procedures are necessary in  
24     light of the large number of proofs of claim filed in these  
25     Title III cases.

1                   Accordingly, the motion is granted and the  
2 Committee's objection is overruled. The Court will enter the  
3 debtors' Proposed Form of Order.

4                   MS. STAFFORD: Thank you, Your Honor.

5                   THE COURT: Thank you.

6                   Now we can go on to the matters queued up as  
7 contested objections to claims. I think -- did we lose  
8 somebody? So have we lost Court Solutions?

9                   All right. We'll have to take a minute because we've  
10 lost Court Solutions.

11                  All right. I understand that we are reconnected with  
12 Court Solutions now and we can proceed. Would everyone be  
13 seated, except for Ms. Stafford? Thank you.

14                  MS. STAFFORD: So we'll begin with the 20th Omnibus  
15 Objection of Claims of the Commonwealth of Puerto Rico, which  
16 is an objection to a number of claims that were amended and  
17 subsequently superseded. Only two responses were filed with  
18 respect to this objection.

19                  The first of these asserts that the -- acknowledges  
20 that its original claim was amended and superseded and asserts  
21 that the original claim would have been automatically deleted  
22 as a result of the amendment, which unfortunately is not the  
23 case and the original claim does remain on the register.  
24 Because the claimant does not disagree that the original claim  
25 has been amended and superseded, we request the objection be

1        granted as to this claim.

2                    THE COURT: So this is the Nestor Rodriguez Marty  
3 claim?

4                    MS. STAFFORD: That is correct.

5                    THE COURT: The objection is sustained and the claim  
6 will be disallowed. And so that is the objection that was the  
7 response filed at 7234.

8                    MS. STAFFORD: With respect to the next response  
9 filed by the United States of America on behalf of Customs and  
10 Border Protection, this response asks for an order preventing  
11 the Commonwealth from later arguing that the amended claim  
12 does not properly relate back to the original claim.

13                  We spoke with the United States and reviewed their  
14 response, and we understand that their concern is that if the  
15 Court were to find that the amended claim is an improper  
16 amendment, that the disallowance of the original claim would  
17 prejudice it because it would be left without any claim  
18 properly asserted against the Commonwealth. We understand the  
19 concerns, but we think that the proposed order the United  
20 States is seeking is simply too broad.

21                  We've agreed that we will not contest whether the  
22 liabilities, as asserted in the original claim, were properly  
23 asserted against the Commonwealth, and we think that  
24 representation should resolve the United States' concerns. To  
25 the extent the amended claim does seek to assert liabilities

1      beyond those asserted in the original claim, we think it's  
2      proper to preserve our right to object to those at a later  
3      time.

4                THE COURT: Would you be willing to amend the Order  
5      to reflect that the objection is sustained without prejudice  
6      to the parties' positions as to the timeliness aspects of the  
7      amended claim that were not asserted in the original claim?

8                MS. STAFFORD: That would be great, Your Honor.

9                THE COURT: So if you will give me a revised proposed  
10     order that includes that language as to this claim, I will  
11     sign that order.

12               MS. STAFFORD: We will be glad to do so.

13               No further responses were filed as to the 20th  
14     Omnibus Objection, but I understand from Your Honor's comments  
15     earlier that we would submit a certification with respect to  
16     these subsequently amended claims that were not responded to,  
17     correct?

18               THE COURT: Yes.

19               MS. STAFFORD: Very well.

20               THE COURT: And so I will look forward to the revised  
21     proposed order with the certification, and subject to those  
22     submissions, the objections will be sustained.

23               MS. STAFFORD: Thank you very much, Your Honor.

24               THE COURT: Thank you.

25               MS. STAFFORD: The next objection is the 21st

1      Objection of the Commonwealth of Puerto Rico to deficient  
2      claims. Only one response was filed as to this objection. We  
3      reached out to and spoke with that respondent, and we are  
4      happy to report that she has withdrawn her claim and will be  
5      filing an amended claim asserting an appropriate amount of  
6      liability, which we reserve our right to object to at a later  
7      time. But it's been withdrawn for purposes of this objection  
8      at this time.

9                THE COURT: Very good. So you will be making a  
10     submission reflecting that withdrawal and truing up the  
11     paperwork?

12               MS. STAFFORD: That withdrawal should be reflected in  
13     the amended schedules that were filed last night.

14               THE COURT: All right. So I guess we just need to  
15     figure out at least --

16               MS. STAFFORD: Of course.

17               THE COURT: I need to understand whether the Court  
18     has to file an order reflecting the withdrawal of that claim,  
19     and so I am hereby asking my staff to figure that out and  
20     reach out to you for any additional proposed order that might  
21     be necessary in that regard.

22               MS. STAFFORD: And we'd be happy to submit anything  
23     if anything further is required.

24               THE COURT: Thank you.

25               So now we have the 23rd?

1 MS. STAFFORD: Yes, Your Honor. The 23rd objection  
2 seeks to disallow 500 claims that are exact duplicates of  
3 other claims.

4 THE COURT: Okay. I'm sorry. So as to the remaining  
5 responses, the remaining aspects of the 21st, you will provide  
6 the certification with the proposed order or --

7 MS. STAFFORD: So this is a deficient claim  
8 objection, so we're happy to provide a certification that  
9 they've been re-reviewed and that there's insufficient bases  
10 for each of these claims as well.

11 THE COURT: Thank you. And so I suppose you could  
12 include in that order my so ordering the withdrawal of the  
13 other claim, and then that would satisfy my paperwork  
14 concerns.

15 MS. STAFFORD: That sounds perfect, Your Honor.

16 THE COURT: Thank you.

17 MS. STAFFORD: The 23rd Omnibus Objection, as I  
18 noted, it seeks to disallow 500 claims that are exact  
19 duplicates of other claims filed by the same claimants. We  
20 have five responses that were filed. The first of these was  
21 filed by Cooperativa de Seguros Multiples, and we have reached  
22 out to the debtor in order to resolve their concerns.

23 THE COURT: The claimant.

24 MS. STAFFORD: The claimant. I'm sorry.

25 We've removed proof of claim 25007, and we've swapped

1      two claims such that 21148 will be disallowed and 24275 will  
2      be a remaining claim. And that should be reflected in the  
3      Revised Proposed Order and Schedule filed last night.

4                THE COURT: So this is a Cooperativa de Seguros  
5      claim?

6                MS. STAFFORD: That's correct, Your Honor.

7                THE COURT: Okay. So with those swappings in and  
8      out, that objection will be resolved?

9                MS. STAFFORD: That's correct.

10               THE COURT: And those will be reflected in the same  
11      order.

12               MS. STAFFORD: Yes.

13               THE COURT: All right. Are we all right? Can we  
14      proceed? We can proceed? Okay.

15               Okay. Thank you.

16               MS. STAFFORD: No problem. The next three objections  
17      that were filed were filed by individuals by the last names  
18      Caraballo Martinez, Bravo Quiles and Centeno. Each of those  
19      we understand were incorrectly flagged as exact duplicates and  
20      we've withdrawn our objections to those claims as reflected in  
21      the schedules filed last night.

22               THE COURT: Very good.

23               MS. STAFFORD: The last response filed was filed by  
24      Maritza Barris Rosario. The response does not address the  
25      substance of the action and simply notes the claimant's

1 service as a teacher.

2 We're deeply mindful of the concerns Ms. Barris  
3 Rosario raises, but nothing in the claims raises the claim  
4 that the claims are exact duplicates or that Ms. Barris  
5 Rosario reserves her right to assert the claim under the  
6 surviving claim. So I assert the objection should be granted,  
7 notwithstanding the response.

8 THE COURT: I've reviewed the Response and Reply to  
9 the Response, and I sustain the objection as to the claim.  
10 The two claims duplicate --

11 Apparently they can't hear on Court Solutions. Is it  
12 a volume issue or a can't-hear-at-all issue? All right.  
13 We're having trouble getting it unmuted.

14 MS. STAFFORD: Okay.

15 COURTROOM DEPUTY: It's claiming it's unmuted.

16 THE COURT: I don't think anyone's sitting on the  
17 edge of their chair to hear how I resolve this claim, so let  
18 me just finish.

19 So the objection is sustained as to the two claims of  
20 Ms. Barris that duplicate her earlier claim 152207, which will  
21 remain on file. And you'll reflect this in the revised order  
22 with the certificate.

23 MS. STAFFORD: That's correct, Your Honor.

24 THE COURT: Okay. So let's just wait one second to  
25 see if there's anything we can do about the Court Solutions

1 problem.

2           This is a test. I'm going to ask somebody who's  
3 listening on Court Solutions if they hear this to I guess --  
4 okay. The person who is monitoring it, court staff, should  
5 text or e-mail us to let us know if she can hear. So we're  
6 good?

7           All right. I'm told it's working again so we can  
8 proceed. I think we are up to the 24th Omnibus.

9           MS. STAFFORD: That's correct, Your Honor. The 24th  
10 Omnibus Objection seeks to disallow 500 duplicate claims.

11          THE COURT: I'm sorry. A little slower and a little  
12 louder.

13          MS. STAFFORD: The 24th Omnibus Objection seeks to  
14 disallow 500 claims filed against the Commonwealth that are  
15 exact duplicates of other claims. Seven responses were filed,  
16 and upon review of each of those responses, the claims were  
17 withdrawn from the objections last night. We actually also  
18 re-reviewed the claims subject to objection and withdrew  
19 additional claims.

20          And we'll be happy to submit a proposed order and a  
21 certificate per Your Honor's request.

22          THE COURT: Very good. Subject to the submission of  
23 the certification, the Court will sustain the objections  
24 listed in the revised order, and I'll look forward to those  
25 submissions.

1 MS. STAFFORD: Thank you, Your Honor.

2 On the 25th Omnibus Objection to claims, this is also  
3 an objection to 500 exact duplicate claims filed against the  
4 Commonwealth by the same claimant. One response was filed,  
5 and upon review of that response, we've withdrawn our  
6 objection, as noted in the schedules filed last night. We've  
7 also re-reviewed, as we re-reviewed all of the exact duplicate  
8 objections, and removed additional claims from these  
9 objections -- from this objection. And we'll be happy to  
10 provide a certificate with the proposed order and amended  
11 schedules.

12 THE COURT: And I will sustain the objection and  
13 disallow the claims subject to that certification coming in.  
14 Thank you.

15 MS. STAFFORD: Thank you.

16 The 26th Omnibus Objection also seeks to disallow 500  
17 claims filed against the Commonwealth that are exact  
18 duplicates of other claims filed by the same claimant. Only  
19 one response was filed, which again, upon review, we realized  
20 was not in fact an exact duplicate.

21 And as to the amended schedules filed last night, we  
22 reviewed our objections and we reviewed all the claims subject  
23 to objection. And we reviewed additional claims, and we will  
24 file a certificate as well.

25 THE COURT: Thank you. We will look forward to that

1 submission, and with that, sustain the objection and disallow  
2 the claims properly subject to objection.

3 MS. STAFFORD: With respect to the 27th Omnibus  
4 Objection sought to disallow 299 claims of other claims filed  
5 by the same claimant, five responses were filed. The first  
6 listed on agenda is filed by the University of Puerto Rico  
7 Retirement System. They objected solely on the basis that --  
8 or responded solely on the basis that they had filed claims  
9 through two different systems, and they wanted to confirm that  
10 there would be no assertion that one system was not valid and  
11 the other system was valid.

12 They did not dispute that the claims were  
13 duplicative, and because they did not dispute the claims were  
14 duplicative, we would request the Court grant the objection,  
15 notwithstanding the response.

16 THE COURT: I've review the Response, and the  
17 objection is sustained. The trust is conceding that the  
18 claims are duplicative, and therefore, they should be  
19 disallowed in the order to be submitted.

20 MS. STAFFORD: With respect to the -- thank you, Your  
21 Honor. And with respect to the remaining four responses,  
22 these are all responses that indicated that the claims were  
23 not in fact duplicative, and upon review of those responses,  
24 we have withdrawn those claims from our objection, and also  
25 re-reviewed the claims subject to this objection and submitted

1      revised amended schedules withdrawing additional claims. And  
2      we'll provide a certificate for the Court as well.

3                THE COURT: Thank you. And so subject to that  
4      submission and the submission of the revised proposed order,  
5      the Court will sustain the objections to the remaining claims.

6                MS. STAFFORD: Thank you, Your Honor.

7                The 28th Omnibus Objection seeks to disallow 23  
8      claims that are exact duplicates of other claims filed by the  
9      same claimant against HTA. Only one response was filed, also  
10     by the University of the Puerto Rico Retirement System, on the  
11     same bases as the prior objection. Namely, that they filed  
12     claims through both -- two systems and wanted to confirm that  
13     one claim -- one system would not be viewed as more valid than  
14     the other.

15               They do not dispute, again, that the claims are  
16     duplicative, and as a result, we would request that the  
17     objection be granted notwithstanding the response.

18               THE COURT: The objection is sustained. And so you  
19     will provide me with the certificate and revised proposed  
20     order.

21               MS. STAFFORD: We will do so, Your Honor.

22               THE COURT: Thank you.

23               MS. STAFFORD: Yes. The 30th Omnibus Objection to  
24     claims seeks to disallow 133 claims, exact duplicates of other  
25     claims filed by the same claimant. Only one response was

1      filed, again by the University of Puerto Rico Retirement  
2      System, raising same concerns about filing claims through two  
3      different systems. But again, Your Honor, it does not dispute  
4      the claims are duplicative, so we would request that the  
5      objection be granted, notwithstanding the response filed.

6                THE COURT: The objection is sustained, and I look  
7      forward to the submission.

8                MS. STAFFORD: Yes, Your Honor.

9                THE COURT: Thank you.

10               MS. STAFFORD: And I also wanted to note on the 28th  
11      Omnibus Objection, we also have swapped two claims upon  
12      reaching agreement with the United States of America. Two  
13      claims -- one claim from the disallowed category to the  
14      allowed category, and vice versa. And that's reflected in the  
15      schedules filed with the Court.

16               THE COURT: And so that will be reflected in the  
17      order that comes in with the certificate?

18               MS. STAFFORD: Yes, Your Honor.

19               THE COURT: Thank you.

20               MS. STAFFORD: Moving on to the 31st Omnibus  
21      Objection to claims, this seeks to disallow 500 claims, exact  
22      duplicates of other claims filed by the same claimant. Only  
23      one response was filed, and that response requested that we  
24      also swap the claims disallowed and that would survive, which  
25      we have done. And we've filed an amended schedule to that

1       effect.

2                   We've also re-reviewed all these claims that are  
3 asserted to be exact duplicate claims for any issues, and  
4 we'll be happy to provide Your Honor with a certificate  
5 indicating that review.

6                   THE COURT: The objection is sustained, and I will  
7 look forward to the submission.

8                   MS. STAFFORD: Thank you, Your Honor.

9                   And finally, with respect to the 34th Omnibus  
10 Objection to claims, which objects to a number of claims that  
11 are late filed duplicate bond claims filed against COFINA,  
12 only one response was filed. And that response does not  
13 address the argument that the claims are duplicative of a  
14 master claim. It simply states that the claims amend a  
15 previously filed claim.

16                  The original claim and the amended claim both assert  
17 liabilities arising from COFINA bond bearing CUSIP numbers  
18 governed by master proof of claim and a claim already  
19 disallowed as duplicative of master proof of claim. And so we  
20 submit it should be granted, notwithstanding the response.

21                  THE COURT: The objection is sustained, including as  
22 to the duplicative claim of the Cooperativa that filed the  
23 response. And I look forward to the certificate and revised  
24 order.

25                  MS. STAFFORD: Thank you.

1                   THE COURT: I believe that takes us through all of  
2 the contested objections.

3                   MS. STAFFORD: I believe it does.

4                   THE COURT: Thank you.

5                   And this also brings us to four minutes to 12:00, so  
6 we will get an extra four minutes in our lunch break. Please  
7 be ready to resume at one o'clock. Have a good lunch,  
8 everyone. We're adjourned.

9                   (At 11:55 AM, recess taken.)

10                  (At 1:09 PM, proceedings reconvened.)

11                  THE COURT: Buenas tardes. Please be seated.

12                  And so the next item on our Agenda is the APJ's  
13 Motion for Relief from the Automatic Stay. And so I would  
14 invite the movant to come forward. We've allotted a total of  
15 25 minutes.

16                  MR. INDIANO VICIC: Thank you, Your Honor. My name  
17 is David Indiano of Indiano & Williams. I represent the  
18 association that represents the active judges here in Puerto  
19 Rico, the APJ, Association of the Puerto Rico Judiciary.

20                  With us today, we have the president of the board of  
21 directors, as well as the treasurer, Judge Salgado and Judge  
22 Rosado in the back row to your left, Your Honor.

23                  THE COURT: Good afternoon, Your Honors. And good  
24 afternoon, Mr. Indiano.

25                  MR. INDIANO VICIC: I know that the Court in these

1      lift stay hearings focuses on the Sonnax factors and analyzing  
2      the determination to lift a stay. I want to spend some time  
3      in analyzing one of the more fundamental issues that we  
4      believe precedes and even supercedes some of these  
5      considerations in this particular matter, and that is the  
6      issue of judicial independence.

7                The simplicity of our position has not been  
8      appreciated by the Oversight Board. The Board has no  
9      authority to force any change in the Judges' compensation or  
10     pensions. This is based on some very fundamental historical  
11     and legal facts, none of which can be seriously questioned.

12               Number one, Puerto Rico is a territory.

13               THE COURT: May I just ask you to hold on for one  
14     second?

15               MR. INDIANO VICIC: Yes.

16               THE COURT: And I've done something to my computer  
17     that is problematic. Okay. I will start a new page. I take  
18     notes on the computer, and it is just not cooperating with me.

19               MR. INDIANO VICIC: No problem, Your Honor.

20               THE COURT: It still is not cooperating with me. My  
21     apologies.

22               MR. INDIANO VICIC: No problem, Your Honor.

23               THE COURT: And of course your clock is not running.

24               Okay. I think it's time for pen and paper. All  
25     right. Thank you.

1                   MR. INDIANO VICIC: I'll proceed?

2                   THE COURT: Yes.

3                   MR. INDIANO VICIC: As I was saying, number one,  
4 Puerto Rico is a territory. Number two, Congress' power to  
5 govern Puerto Rico is found under the Territorial Clause,  
6 which is plenary power.

7                   Number three, in establishing the level of  
8 self-governance for Puerto Rico, Congress specifically stated  
9 in Law 600, and I quote, Said Constitution shall provide a  
10 republican form of government. That's at Section Two.

11                  And point four, only then and if the President of the  
12 United States found that the republican form of government,  
13 quote, conforms with the Constitution of the United States,  
14 could he submit the proposed Constitution to Congress for its  
15 approval.

16                  Section three, inherent in a republican form of  
17 government under the United States Constitution are three  
18 coequal, independent branches of government. It envisions the  
19 separation of power, and the independence of the judiciary is  
20 of paramount importance to the functioning of this republican  
21 form of government.

22                  As clearly expressed, we know, and as I've drafted in  
23 many of the motions, language of the Founding Fathers,  
24 Hamilton in particular, and others at the very commencement of  
25 the American experiments, in exercising its plenary powers to

1      allow Puerto Rico to have a measure of self government,  
2      Congress used the most expansive reaches of this plenary power  
3      to create and require this republican form of government. And  
4      this would essentially mirror the Government of the United  
5      States itself.

6                 Congress did not make an exception for the Puerto  
7      Rico judiciary. It is impossible to ignore this, nor is it  
8      possible to imagine a Congress for a moment envisioning  
9      anything other than a judiciary with independence.

10                This is one of the key grievances going back to the  
11      Declaration of Independence against King George, that he had  
12      the judges in their pockets. The notion of judicial  
13      independence is engrained in the American version of the  
14      republican form of government.

15                Once you start there, the next steps in our analysis  
16      are easy to see. After using the maximum contours of its  
17      plenary power to establish a republican form of government  
18      under the Territorial Clause, Congress passed law after law  
19      using parts of that plenary power, smaller slices to create  
20      other laws to govern Puerto Rico.

21                One of these slices was used when it passed PROMESA,  
22      a rather large slice, but that's all it did. It did not undo  
23      the basic essence of what it had done in the 1950s concerning  
24      the nature of Puerto Rico and its form of government.

25                THE COURT: Just one -- I'm sorry. Something has

1      happened with our phone line again.

2                    MR. INDIANO VICIC: No problem.

3                    THE COURT: All right. I'm sorry. We have to take a  
4                    little break to get that fixed up. And maybe -- I'm sorry.  
5                    Apparently we need a few more minutes for the technician to  
6                    check something, so if you'd like to have a seat.

7                    MR. INDIANO VICIC: Sure.

8                    THE COURT: Thank you for your patience.

9                    So have we got the sound or -- still waiting.

10                  This is a test. Whoever is monitoring in New York  
11                  and whoever is monitoring in the overflow room, let us know.  
12                  Apparently New York can hear and we're back on the Court  
13                  Solutions Line. Is that correct? All right.

14                  Mr. Indiano.

15                  MR. INDIANO VICIC: Thank you, Your Honor. I'm going  
16                  to step back to what I was saying so it can flow.

17                  THE COURT: Yes.

18                  MR. INDIANO VICIC: When it passed PROMESA, what it  
19                  did was take a piece of that plenary power and pass a very  
20                  important law, a significant law, but it did not undermine the  
21                  basic form of government that Congress had required for Puerto  
22                  Rico back in the 1950s, concerning the not implicitly -- or  
23                  explicitly upset the concept of judicial independence, and  
24                  there was no reason for Congress to do so.

25                  And when it's all said and done, this Court has

1      approved whatever plan, fiscal plan it approves, but all of us  
2      remaining here need an independent judiciary. The success or  
3      the failure of the economy that eventually emerges from this  
4      procedure is what the business world and the citizens of  
5      Puerto Rico need in order to have this economy that goes  
6      forward be successful.

7                The Board has stated that the judges are not unique  
8      in their across-the-board attempts to cut pensions. They are  
9      wrong. And there is no sense of entitlement or superiority  
10     that attaches to this uniqueness. Judicial independence is  
11     more of a cross to bear by the judiciary than some lofty  
12     perch, as the Board suggests. It is a burden of every judge  
13     to leave all personal and financial interests behind when he  
14     or she dons the robes. And I know I'm speaking to the choir,  
15     Your Honor.

16               No act of the legislature or the executive should  
17     attempt to impinge upon that independence. And no board, also  
18     a creature of Congress, but not Congress itself, can undo what  
19     Congress has done by requiring the establishment of a  
20     republican form of government with the intrinsic requirement  
21     of independent judiciary.

22               Our position is clear. There's no authority for the  
23     Board to touch the judges' pensions. And while the Board has  
24     argued disingenuously, I think, that it would be the Court,  
25     not the Board, that would ultimately cut the pensions, that

1      is, at best, a semantic dodge.

2                If the Board recognizes the limits of its power and  
3 authority with respect to this fundamental aspect of the  
4 necessity for judicial independence of Puerto Rico based on  
5 the Congressional mandate, it would not be pushed, so we would  
6 not be here, they would not be here opposing this motion to  
7 stay.

8                While I do not believe that the *Sonnax* factors are  
9 even necessary to address because of this preceding legal  
10 mandate of Congress, I do want to make some comments on the  
11 opposition and draw some of those factors --

12               THE COURT: And I also would appreciate your  
13 attention to the prematurity argument, which may have shifted  
14 now given the announcement of the RSA today.

15               MR. INDIANO VICIC: I'm sliding right into that.  
16 That's one of my next comments, Your Honor.

17               But one of the first things the Board says at page 19  
18 of their brief is they say the issue of whether Puerto Rico's  
19 Constitution grants a priority enforceable in Title III is an  
20 issue that virtually all major creditors' groups cannot afford  
21 to ignore. It could totally derail all pending discussions.

22               This shows a lack of focus by the Board on the source  
23 of law for this position of the judges, which is the  
24 Congressional exercise of its plenary power of the Territorial  
25 Clause, which required a republican form of government, with

1       its inherent separation of powers and judicial independence.

2                  It is not about the Puerto Rico Constitution. It is  
3                  about what Congress did. This is not a priority question  
4                  under the Puerto Rico Constitution. This is a mandate of  
5                  Congress, and we have to look at it.

6                  Congress never -- I mean PROMESA was never intended  
7                  to undo that when it was passed. And there is no derailing  
8                  here. The procedures have gone forward. There are only about  
9                  386 judicial positions of the active judges, and those are the  
10                 only ones that are being held up here.

11                 Obviously, as we've seen today, proceedings are going  
12                 forward. There's settlement negotiations all over the place.  
13                 And this is a purely legal issue. Our case that was filed  
14                 under the Federal Court as a declaratory judgment action.

15                 What we need -- and it can be expedited briefings.  
16                 That is, there's no discovery required. There's no trial  
17                 required. It's simply briefing on whether our position is  
18                 accurate, correct or not. That could be expedited. It would  
19                 not hold up these proceedings in any way.

20                 And despite the judges' claim that the judges are not  
21                 unique, I have no reservations saying that they are. No other  
22                 branch of the government, looking at some of these other  
23                 discussions that there are today, can advance the position the  
24                 judiciary has of judicial independence. There are no flood  
25                 gates waiting to open because of this position.

1           Let me now address specifically what you asked me to,  
2 Your Honor. On the point one, Sonnax factor one, they say in  
3 their opposition that we are premature. We know that's not  
4 true anymore. Today they basically said they're going to have  
5 their Plan of Adjustment in 30 days, whatever they can do.

6           So at one point we were too early, and now we are  
7 almost too late. But surely that premature argument is  
8 clearly gone. They want us to only be able to raise this  
9 purely legal question of Congressional power, and their power,  
10 in the context of the objections in a Plan of Adjustment.

11           We have a right to have this decided in a federal  
12 court with a right of appeal to the First Circuit, so there's  
13 no question --

14           THE COURT: Am I not a federal court from which  
15 there's a right of appeal to the First Circuit?

16           MR. INDIANO VICIC: No, that's all I'm asking --

17           THE COURT: I'm not?

18           MR. INDIANO VICIC: I'm not saying that you're not,  
19 Your Honor.

20           THE COURT: Okay.

21           MR. INDIANO VICIC: I'm not saying that. All I'm  
22 saying is we have a right to have this issue decided by a  
23 federal court so we can make it clear that this power does not  
24 reside with the Board.

25           There is no need to delay this resolution so we are

1      not subjected to the constant pressure to cede to cuts on  
2      their pensions when there is no power to do so. The  
3      noninterference with Title II -- Title III case, in *Sonnax*  
4      factor two, in that case, the Board, I think, grossly  
5      exaggerates the impact of lifting the stay. If you follow  
6      their logic, no stay would ever be lifted.

7                And this Board can be -- this matter can be resolved  
8      as a matter of law in discovery. We are at 386 potential  
9      spots in the judiciary of active judges. It's a very de  
10     minimis amount of human beings that are subject to this  
11     situation in the judicial branch.

12               In terms of judicial economy, a declaratory judgment  
13     will relieve the Court, relieve the Board of its  
14     self-perceived need to have these across-the-board cuts, in  
15     their vision of fairness, when it's not a matter of fairness.  
16     It's a matter of the form of government that we have in Puerto  
17     Rico, as mandated by Congress, requires something that they  
18     can't interfere with. And this relieves them of the burden of  
19     trying to do that with their, I think, understandable need to  
20     want to be fair across the board, but the judiciary is in a  
21     different situation.

22               In balancing the harms, the -- there is no  
23     conceivable way for me to look at this small amount, de  
24     minimis amount of judges as derailing the process which is  
25     going forward. And the only branch of government that has to

1      be protected is the judiciary in terms of its independence.  
2      It's the one branch that can't stand up for itself.

3                That is what all the case law and all the language of  
4      the Founding Fathers was clear on. And that is also expressed  
5      in the Puerto Rico Supreme Court case as well. This branch  
6      cannot stand up for itself and must be protected, and the  
7      independence of the judiciary must be protected. And the only  
8      way to do it is to make it clear to the Board that they are  
9      treading on grounds which are not in their ambit to deal with.

10               As we said in our Reply Brief, in ending, there is  
11      precious little economic impact by the government and  
12      tremendous benefit in preserving an independent judiciary that  
13      Puerto Rico must have in order to marshal the respect and  
14      confidence of all citizens of this yet-to-be-created world  
15      left after restructuring is complete.

16               This new economy will be stillborn, absent an  
17      independent, coequal branch of government in the judiciary.  
18      The active judges of Puerto Rico, through the APJ, request to  
19      this Honorable Court to lift the stay and allow its  
20      declaratory judgment action to proceed so that can be clear.  
21      Thank you.

22               THE COURT: Thank you.

23               MR. BIENENSTOCK: Good afternoon, Your Honor.

24               THE COURT: Good afternoon.

25               MR. BIENENSTOCK: Martin Bienenstock of Proskauer

1       Rose, LLP, for the Oversight Board.

2                     Your Honor, movant spent the bulk of the time talking  
3 about the merits of the case and then got to the *Sonnax*  
4 factors. I'm going to start with the Motion for Stay Relief,  
5 and then I'll make some very brief comments about the merits  
6 of the case.

7                     The problem, the essential reason why we oppose the  
8 motion and we urge the Court not to grant it is that its logic  
9 doesn't hold up, neither for why relief from the automatic  
10 stay is beneficial to the process, is essential for the  
11 Judge's Association, or that the Board needs to be told to  
12 stop, that it's treading on waters that it has no power to  
13 tread on.

14                  Starting with I guess the Court's question about the  
15 impact of the potential timing now of a proposed plan of  
16 disclosure statement being filed, that would powerfully argue  
17 for this Court to determine the issue that the Association  
18 wants determined.

19                  And let's compare -- and let's see why and let's  
20 compare the two alternatives. Movant could go off to the  
21 federal court in which it filed its Complaint, and it could  
22 prosecute its action against the Oversight Board.

23                  Now, parenthetically, we don't think it would go too  
24 far because of Section 106(e) of PROMESA, because they're  
25 essentially saying they want a District Court to hold that the

1      Oversight Board can't promulgate or certify a fiscal plan that  
2 impacts judges' pensions. That's precisely what 106(e) says  
3 no federal District Court can do. But they want to do that,  
4 and it's them against the Oversight Board.

5           Let's compare that to what we're proposing. We're  
6 going to propose a plan. As this Court knows, and as movants  
7 know, there are many parties in interest, some of them are in  
8 the courtroom now, who assert priorities on different grounds.  
9 True, no one else has the judicial independence ground. But  
10 we know the GO creditors say they have liens on all the assets  
11 and they have -- even if they don't have liens, they have  
12 first priority to all available resources.

13          We know that other creditors say they have an  
14 entitlement to get clawback funds back, because the clawback  
15 funds from HTA should never have been taken in the first  
16 place. All of these creditors and more are going to make  
17 their cases for priorities unless we button down everything in  
18 settlements. And everyone will be able to defend against  
19 other people's asserted priorities and prosecute their own  
20 asserted priorities. That's the way it should be. That's the  
21 way it is at confirmation hearings.

22          What movant is asking for is a one-off against the  
23 Oversight Board without the other competing parties asserting  
24 priority being present. It just makes no sense. They would  
25 be -- they would either have to try to intervene in movant's

1      action, or there would be this ruling in a case where they  
2      were not parties.

3                And then the first thing Your Honor would have to do  
4      is decide, well, are they really bound by another case in  
5      which they were not parties, that the judges have first  
6      priority to this money? So starting there just doesn't work.

7                Second, what is the need to know today before there's  
8      a confirmation, or to start an action today before this is  
9      resolved in confirmation for them to have a ruling that the  
10     fiscal plan that proposes an impact on pensions cannot be  
11     certified or has to be invalidated?

12               Everyone else in this case who has tried that has  
13      been turned down by both this Court and the First Circuit  
14      Court of Appeals, for reasons I don't have to go into.  
15      Everyone in the courtroom knows them, and Your Honor wrote  
16      some of those decisions.

17               THE COURT: I'm sorry. The sound has dropped again,  
18      so hold that thought.

19               MR. BIENENSTOCK: No problem.

20               THE COURT: This is a test. Would whoever is  
21      monitoring Court Solutions and the remote courtrooms please  
22      check in and let me know whether you can hear?

23               COURTROOM DEPUTY: Judge, do you want to try one more  
24      time?

25               THE COURT: This is a test. Would whoever's

1 || monitoring please let us know whether we can be heard in the  
2 || remote locations? Are we getting a yes?

3 || COURTROOM DEPUTY: We are, yes.

THE COURT: All right. We are back on.

5 Mr. Bienenstock.

6 MR. BIENENSTOCK: Sure. I think the most efficient  
7 thing for me to do now is I'm going to run through the 12  
8 Sonnax factors and then briefly address the merits.

9 Factor one, whether relief would result in complete  
10 or partial resolution of the issues. As I was just  
11 explaining, a one-off determination that the judges' salaries  
12 can't be reduced, or pensions can't be reduced, would not be a  
13 complete resolution of the issue because you have the GO  
14 claims that say we get first claim to all available resources,  
15 no matter what.

16 So if the resources they say they have first priority  
17 to have to first go to the GOs, there's obviously a dispute.  
18 It would not resolve everything. And if the Court -- if  
19 there's one thing that is safely predictable, it's that  
20 everyone is going to have a reason why their ruling doesn't  
21 mean that they come ahead of all the other creditors asserting  
22 priority for a variety of reasons.

Sonnax factor two, the lack of any connection with or  
interference with the bankruptcy case. Well, this is  
completely connected and interferes with the bankruptcy case.

1      It will interfere with the confirmation hearing.

2                And what's more, Your Honor, what if they're in the  
3                middle of their action in the Federal District Court or it's  
4                been resolved and it's on appeal and Your Honor is posed with  
5                priority issues at confirmation?

6                How does this Court now give deference to whatever  
7                has been decided in another court or what might be decided and  
8                reversed or affirmed on appeal? It would only create  
9                confusion and needless complexity.

10               *Sonnax* factor number three, whether the foreign  
11               proceeding involves a debtor. Well, that's inapplicable.

12               Four, whether a specialized tribunal has been  
13               established. Absolutely not. So that goes in favor of not  
14               terminating the stay.

15               Five, whether the debtors' insurance carrier has  
16               assumed full responsibility. Well, there is no insurance here  
17               to pay the judges' pensions, so that goes in favor of not  
18               giving stay relief.

19               Six, whether the action essentially involves third  
20               parties rather than the debtor. No, this most definitely  
21               involves the debtor. So in favor of the Board again, of not  
22               granting stay relief.

23               Seven, whether the litigation can prejudice the  
24               interest of other creditors. Absolutely, it could, for the  
25               reasons I've discussed. Reason not to grant stay relief.

1           Eight, whether a judgment in the foreign action is  
2 subject to equitable subordination. Well, no foreign action,  
3 so it's inapplicable.

4           Whether movant's success in the foreign proceeding --  
5 this is nine -- would result in a judicial lien. Again,  
6 inapplicable.

7           Ten, the interest of judicial economy and the  
8 expeditious and economical determination of litigation for the  
9 parties. For the reasons I explained, it's much more  
10 efficient to do it in one confirmation hearing where  
11 everyone's priority claims are on the table, rather than in  
12 bifurcated proceedings where not everyone has a chance to be  
13 in both.

14           Eleven, whether the foreign proceedings have  
15 regressed. Well, again, that's inapplicable.

16           And 12, the impact of the stay on the parties and the  
17 balance of hurt. Your Honor, there, I think, the fact that  
18 virtually every factor that was applicable -- every factor  
19 that was applicable was in favor of not giving stay relief  
20 shows that the balance of hurt suggests that the stay should  
21 not be modified.

22           Now, Mr. Indiana mentioned that he thinks it's sort  
23 of a distinction without a difference that we said that if the  
24 pensions are reduced, it would be the Court doing it and not  
25 the government. And I just want to explain why it's -- it's

1      most definitely a distinction with a difference, and that's  
2 why we said it.

3                And we didn't say it to put the onus on Your Honor  
4 either. We said it because the Supreme Court said it in the  
5 *Bekins* decision. There, which was one of the first tests of  
6 Chapter Nine after the Supreme Court had ruled the first  
7 Chapter Nine was unconstitutional in *Ashton*, the issue again  
8 came up.

9                How can a city, a municipality, avail itself of a  
10 bankruptcy discharge without running afoul of the notion in  
11 the Federal Constitution that states can't impair contractual  
12 obligations? And the answer that the Supreme Court gave is  
13 the state, the municipality is not doing it. It's the Federal  
14 Court that's doing it. And that's the reason why we made that  
15 distinction. It had -- go ahead, Your Honor.

16               THE COURT: It seemed to me that Mr. Indiano's  
17 arguing here today that even the Court would not have the  
18 power under PROMESA to alter the judicial pensions; that by  
19 making the basic specification that the Puerto Rico  
20 Constitution has to embody a republican form of government,  
21 Congress has implicitly decreed that only Congress itself  
22 could invade judicial independence, the compensation element  
23 of judicial independence here in Puerto Rico.

24               MR. BIENENSTOCK: Well, the answer to that, Your  
25 Honor, is that Congress wrote in Section Four of PROMESA,

1      that PROMESA, quote, Shall prevail over any general or  
2      specific provisions of territory law, state law, or regulation  
3      that is inconsistent with this Act, end of quote.

4           So Congress responded to Mr. Indiana and said, we are  
5      passing this federal law that will allow you, among other  
6      things, to impair contractual obligations throughout the  
7      territory, and it prevails over any inconsistent territory  
8      law, of which the Puerto Rico Constitution is one.

9           Now, I'll wrap up just with the most basic  
10     observation on the merits, Your Honor. Movant starts with  
11     judicial independence and the republican form of government.  
12     We respect both principles. No issue. But the dots are not  
13     connected.

14           They're saying somehow that by a debt restructuring  
15     dealing with the inadequacy of funds to pay all debts in full,  
16     that if you reduce a judicial pension, the judge will no  
17     longer be independent. We reduced the legislature's budget by  
18     ten percent last year. They challenged it in this court. The  
19     Court ruled in favor of the Oversight Board. It was appealed  
20     to the First Circuit. The First Circuit affirmed.

21           The -- we have to do what we have to do to deal with  
22     the truism that we don't have enough money to go around. It  
23     would be one thing if the Puerto Rico legislature or the  
24     Governor were saying, I don't like some judicial decisions  
25     that have come down in Puerto Rico courts lately, so I'm going

1      to lower the judges' salaries. That's not what's happening  
2      here. What's happening here is there is a global discount of  
3      debt because we don't have enough to go around. It doesn't --  
4      there's no logic showing why that impacts independence.

5                And as Mr. Indiana knows, because we've shared with  
6      him the cases, the jurisprudence in the Federal Courts, when  
7      challenges to changes in judicial salaries have come up, is  
8      that as long as the judges are not being targeted, there's no  
9      impact on their independence. And there's no -- and they  
10     haven't made a suggestion here that they're being targeted.  
11     And of course, we would never do that and we haven't done  
12     that.

13               So again, finally, we haven't decided how we're going  
14     to treat their pension claims. We appreciate what they do,  
15     who they are, their arguments, but to isolate that one issue  
16     and to send it to another court, albeit a federal court, when  
17     not all the parties affected by the impact would be there to  
18     be heard, and it could certainly complicate a confirmation  
19     hearing, you know, that, with all of the *Sonnax* factors I  
20     mentioned, I think makes fairly clear that this is not a good  
21     situation for stay relief.

22               THE COURT: One question for you before Mr. Indiana  
23     comes back. You said that there hasn't been a decision made  
24     as to how to treat these judges' pension claims. I think I  
25     heard Mr. Gordon this morning saying that the deal with the

1      Retiree Committee includes alterations to the Judicial  
2      Retirement System. So is that something separate?

3                    MR. BIENENSTOCK: Yes. And Your Honor heard  
4      correctly and it is separate.

5                    We're anticipating, not in concrete, but we're  
6      anticipating that there's going to be a class of retirees, and  
7      that's what Mr. Gordon was talking about this morning. But  
8      movants, our understanding is that movants are active judges  
9      who are concerned about what happens to their future pension,  
10     and that is a separate class. And we haven't made a final  
11     determination on that.

12                  THE COURT: Thank you for clarifying that.

13                  MR. BIENENSTOCK: Thank you.

14                  MR. INDIANO VICIC: Your Honor, in response to your  
15     question, Mr. Bienenstock cited parts of PROMESA. He didn't  
16     talk about overriding Congressional mandates regarding the  
17     creation of Puerto Rico's system of government. They were  
18     hoping to form a government -- he mentioned territorial, state  
19     regulations. None of those are Congress, so that was  
20     completely unresponsive to your question.

21                  THE COURT: Well, his point, as I understood it, is  
22     that Congress may have made specifications for the Puerto Rico  
23     Constitution, but Congress very specifically said in PROMESA  
24     that PROMESA can override any law that is the law of the  
25     territory, and there's no reason not to consider the

1      territory's Constitution, which was developed here, a law of  
2      the territory.

3                Is that a fair summary, Mr. Bienenstock?

4                MR. BIENENSTOCK: (Nodding head up and down.)

5                THE COURT: He's nodding yes.

6                MR. BIENENSTOCK: That's perfect, yes.

7                THE COURT: He said it was perfect. Thank you. I  
8      get a gold star.

9                MR. INDIANO VICIC: And that shows the problem here.  
10     We are not talking about the Puerto Rico Constitution. We're  
11     talking about what Congress required to be created in terms of  
12     the form of government, republican form of government.

13        We're a step above the Puerto Rico Constitution in a  
14     sense, and I don't mean that in a superiority sense, but in  
15     terms of entering into a legal analysis, we're talking about  
16     what Congress did when it mandated a creation of a form of  
17     government of Puerto Rico, a republican form of government,  
18     not a separate law.

19        It said whatever you come up with, it has to be this.  
20     And you can't -- the laws that they're talking about in the  
21     Constitution, that's why when we start -- immediately I  
22     started hearing about bond claimants, they're trying to put  
23     judges in this basic argument, which is the form of  
24     government, on the level of a Puerto Rico constitutional  
25     claim. That's not really what we're talking about. We're

1      talking about what Congress did in the creation of what we  
2      have in Puerto Rico, and the requirements that this be a  
3      three-part separated powers of government, with judicial  
4      independence as an inherent quality of the judicial branch.

5                That's where the analysis gets off track, because  
6      they keep trying to drag us into this analysis. You're like  
7      everybody else. You have to compete at a confirmation  
8      hearing. That's not what we're talking about. We're talking  
9      about Congress stepped in before all that and created  
10     something which has not been undone by PROMESA anywhere.

11              THE COURT: Well, there will be other people who will  
12     want to compete with that proposition, and so that is one  
13     important consideration of the forum in which this debate  
14     should occur.

15              MR. INDIANO VICIC: It's difficult to imagine an  
16     entity that's going to be able to compete given -- on that  
17     historical basis, on that legal basis from a mandate of  
18     Congress.

19              THE COURT: You may think you have a slam dunk, but  
20     due process demands that other people who want to challenge  
21     that proposition be able to challenge it in a way that  
22     everyone who was concerned can be bound by the results.

23              MR. INDIANO: Everybody has told me, whatever this  
24     is, it's not a slam dunk. I know it's a difficult and unique,  
25     perhaps, perspective, but that doesn't mean it's not correct.

1      I'm just trying to shift the argument to where I think it has  
2      to be with respect to what Congress created when it  
3      established whatever we have here in terms of form of  
4      government.

5           So I understand the desire to put us on some kind of  
6      level where we're just competing with equal components of this  
7      process. That's not what Congress created. And we talked  
8      about in the -- I understand the --

9           THE COURT: I'll need you to wind up.

10          MR. INDIANO VICIC: Yes. I'll just wind up with the  
11      issue of who's pushing the changes. We already know -- and  
12      Judge, I think you picked up on this. They say they don't  
13      know what they're going to do with the retirement of the  
14      judges. They have already essentially cut a deal with one  
15      group of retired judges, and we're the active judges. So it's  
16      still disingenuous to say they don't know what they're doing.

17          They're going to have to try to force cuts in the  
18      pensions. And they want us to connect the dots, how do  
19      pensions effect judicial independence. There is a plethora of  
20      case law describing how that has affected, going to the *Booth*  
21      case, United States Supreme Court, and tons of other cases.

22          So that is to be seriously questioned. Any effect on  
23      judicial compensation is an attack on the independence of the  
24      judiciary, and that's established by case law.

25          Thank you very much.

1                   THE COURT: Thank you.

2                   And I thank both counsel for these arguments, and I  
3 will take this matter under submission.

4                   MR. INDIANO VICIC: Thank you.

5                   THE COURT: The next Agenda item is Roman IV, number  
6 16, the Motion for Relief from Stay of the AMPR.

7                   MR. BARRIOS RAMOS: Good afternoon, Your Honor.

8                   THE COURT: Good afternoon.

9                   MR. BARRIOS RAMOS: Counsel, Jose Luis Barrios in  
10 representation of Asociacion de Maestros de Puerto Rico and  
11 its union, Asociacion de Maestros de Puerto Rico-Local  
12 Sindical.

13                  THE COURT: Good afternoon, Mr. Barris Ramos.

14                  MR. BARRIOS RAMOS: Your Honor, we are pleased to  
15 announce that AMPR and the Oversight Board have reached an  
16 agreement in principle regarding the settlement that we, in  
17 our view, will address in a complete form, the teachers'  
18 relief or request for relief in the Motion for Relief of Stay.

19                  As part of this settlement agreement, in principle,  
20 the AMPR and the Oversight Board have identified a mechanism  
21 to complete the payment of this unused, accrued sick leave to  
22 the teachers that retired on or about the summer of 2017 and  
23 were impacted by Law 26. However, at this point, we will need  
24 the Government's cooperation to implement this mechanism.

25                  We are hopeful that given Mr. Friedman's earlier

1 statement in court, that it's the government's position to  
2 protect all its pensioners, that their cooperation will come  
3 in an immediate basis.

4                 Besides that, Your Honor, I believe that it is the  
5 position of the AMPR that this settlement agreement in  
6 principle is a win-win situation, like Mr. Bienenstock  
7 mentioned earlier, referencing other agreements that unions  
8 have reached with the Oversight Board. And we will have  
9 nothing further.

10                 I think counsel for the Oversight Board --

11                 THE COURT: Thank you.

12                 Good afternoon, Mr. Possinger.

13                 MR. POSSINGER: Good afternoon, Your Honor. Paul  
14 Possinger of Proskauer Rose on behalf of the Oversight Board.

15                 I can confirm what Mr. Barrios has said. We have  
16 reached an agreement with respect to how to handle the  
17 underlying claims that relate to this motion and that will  
18 result in the disposition of the motion itself.

19                 We are awaiting confirmation from the government that  
20 they will cooperate with the settlement payments themselves.  
21 That has not yet occurred. We think that is the last detail  
22 to iron out. Once that happens, we should be able to  
23 implement this.

24                 And then counsel had mentioned to me that you may  
25 request a status report on this, or that we might agree to

1 submit a status report before the next Omnibus to inform Your  
2 Honor as to where this has ultimately come out.

3 THE COURT: Yes. So shall I mark this, put over to  
4 the July 24th Omni with a status report to be filed by July  
5 17th at the latest?

6 MR. POSSINGER: That works for us, Your Honor.

7 THE COURT: Thank you.

8 MR. POSSINGER: Thank you.

9 THE COURT: Mr. Friedman.

10 MR. FRIEDMAN: Your Honor, Peter Friedman on behalf  
11 of AAFAF. Again, you know, I mentioned this to Mr. Possinger  
12 and I mentioned this to labor counsel, at this point, the  
13 government -- I certainly don't have authorization or client  
14 authorization to indicate what the government's going to do.

15 The government has been put in a position where the  
16 Board has said here's a new expense to pay --

17 THE COURT: I'm sorry. I need you to talk a little  
18 louder. Thank you.

19 MR. FRIEDMAN: Sorry, Your Honor.

20 Where the Board has said pay something, but hasn't  
21 said where does that money come from, does something else get  
22 cut -- we know they want to do this in furtherance of the  
23 agreement they signed this morning, and there are parts of  
24 that agreement that may be appealing, but we've expressed our  
25 concerns already about some of the overreaching aspects of

1       that.

2                     So obviously we will cooperate in terms of providing  
3     a status update, but again, I want to be clear and not leave a  
4     misimpression by silence that AAFAF and another department of  
5     the government has authorized this payment in light of sort of  
6     the circumstances and the uncertainty about where the money's  
7     going to come from, what other funds may be, you know,  
8     impinged upon or impeded by doing this, and sort of the  
9     absence of a clear direction as to how that works out.

10                  And like I said, we will participate in providing any  
11    necessary information for a status update in a timely  
12    manner.

13                  THE COURT: And I assume that you will participate in  
14    discussions in between, to the extent there can be clarity in  
15    some agreement reached as to the fiscal impact of this  
16    agreement and sources of funding?

17                  MR. FRIEDMAN: Yes, Your Honor.

18                  THE COURT: All right. I think that's the most that  
19    can be asked at this moment, and I hope that there will be  
20    some progress and clarity one way or the other. And I will  
21    look forward to the July 17 status report.

22                  MR. FRIEDMAN: Thank you, Your Honor.

23                  THE COURT: Thank you. And I thank you all.

24                  And so that takes me through Roman IV on the Agenda,  
25    and I will turn the bench over to Judge Dein for the items at

1 || Roman V. And then I will return for the items at Roman VI.

2 || Thank you.

HONORABLE MAGISTRATE JUDGE DEIN: I'm authorized for  
a seventh inning stretch.

5 MR. DESPINS: Good afternoon, Your Honor. Luc  
6 Despins with Paul Hastings on behalf of the Committee. And  
7 I'm going to handle -- there are three motions for stay in the  
8 three different cases, but I think it makes sense to handle  
9 them all together.

10 HONORABLE MAGISTRATE JUDGE DEIN: I think so.

11 MR. DESPINS: And I would like to reserve maybe five  
12 minutes for rebuttal at the end.

13 So the three motions seek to stay the proceedings  
14 that the Board and the Committee started together all around  
15 the time where the statute of limitations was about to expire  
16 in these three cases.

17                   And just to give you a sense of magnitude, Your  
18 Honor, there were 26 adversary proceedings that were filed in  
19 these three cases, 1,500 defendants, more or less. In the  
20 Commonwealth case, there were GO clawback actions, eight of  
21 those adversary proceedings against 752 defendants.

22 There were also GO lien challenges where the Board  
23 and the Committee said the GO holders are not secured  
24 creditors. Seven different adversary proceedings there  
25 against 368 defendants in the ERS case. There were only

1      clawback actions. These are actions to get back the money  
2      that was paid to the holders of ERS bonds. Seven adversary  
3      proceedings against 235 defendants.

4                And finally in the HTA case, there was only a lien  
5      challenge, four different adversary proceedings against 143  
6      defendants.

7                Since we filed the Motion to Stay -- the motions,  
8      plural, to stay, there were obviously objections filed, and  
9      we'll address that in a minute. But also I wanted to mention  
10     to the Court, because I'm not sure you know, that FGIC filed  
11     an answer in the HTA -- I see you're nodding so, therefore,  
12     you know about that.

13               HONORABLE MAGISTRATE JUDGE DEIN: You answered that  
14     on --

15               MR. DESPINS: And also there was a motion to dismiss  
16     filed by a group of GO bondholders to the lien challenge as  
17     well, so I wanted to tee that up.

18               So the first, easiest part, Your Honor, is the Motion  
19     to Stay in the ERS case. We believe that is unopposed, so we  
20     would -- we'll submit a separate form of order, if Your Honor  
21     is agreeable, but I wanted to put that aside.

22               HONORABLE MAGISTRATE JUDGE DEIN: I agree. Let's put  
23     it aside.

24               MR. DESPINS: Okay.

25               HONORABLE MAGISTRATE JUDGE DEIN: I think whatever is

1 sort of agreed with the others, we'll go along with that.

2 MR. DESPINS: So now let's deal with the others. And  
3 what we said in the Motion to Stay is that we wanted an  
4 extension of time to serve the various complaints on these  
5 1,500 defendants. And that regardless of that, we thought  
6 that there should be a stay of the proceedings.

7 We raised a number of issues, and I'd like to address  
8 some that were not addressed as well, looking back, as they  
9 should have. But one of the points we made is that there is  
10 already litigation, for example, in the ERS case, as to  
11 whether bonds are valid or not.

12 If that litigation produces a result, why, good or  
13 bad, why bother the people in the clawback until we know the  
14 outcome of that underlying litigation? So that's one reason  
15 to stay the service of the complaints on the clawback. And  
16 generally that applies to the clawback.

17 I would say that the most disruptive type of action  
18 that we can take is serving the clawback actions, because  
19 you're telling people that got money three years ago that they  
20 have to give it back. And that is cause -- it's not the issue  
21 of using a first-class stamp and mailing the Complaint to the  
22 person. It's what comes back after that. That is going to  
23 engender a lot of legal fees and costs to deal with the trauma  
24 that that will cause.

25 I would say the main focus is on the clawback, and

1      also there's a reason to stay the clawback, which is that  
2      there's an underlying action that relates to the clawback.  
3      Let's see how that action turns out before we, you know,  
4      disrupt the various people that are the targets there.

5           And the other point to be made is that -- is again,  
6      it's not only the service of this. Of course we can serve the  
7      1,500. We can put as many people as needed on that. That's  
8      not the point. We don't need until necessarily November to do  
9      that, but it's everything that will be caused by the service,  
10     service at different times, you know, coordinating all of  
11     that.

12           HONORABLE MAGISTRATE JUDGE DEIN: Your papers say  
13     that you needed the time to -- you have two separate issues,  
14     right? You have service and then you have the stay of  
15     litigation?

16           MR. DESPINS: Correct.

17           HONORABLE MAGISTRATE JUDGE DEIN: But your papers  
18     were pretty clear, I thought, that said you wanted the stay  
19     for service for really administrative reasons.

20           MR. DESPINS: Correct. I'm getting to that.

21           So one of them is you have to coordinate service,  
22     because people are served at different times. Their time to  
23     answer runs -- so there's a whole coordination effort. But on  
24     top of that, it's the issue of -- and, you know, I think when  
25     we got approval to do this in New York, I remember Judge Swain

1      looking at me and saying -- there was a reference to some  
2      circus. I forget if it's -- but basically saying, look,  
3      you're doing this because the statute of limitations is about  
4      to expire.

5                 The answer is yes. I fully expect that what's going  
6      to happen after that is an effort to resolve all of this  
7      rather than having -- and I forget the expression. That's  
8      where the circus analogy came in. But I fully expect there  
9      will be efforts to settle all of this rather than litigate in  
10     39 different directions. I think that was the analogy that  
11     was used.

12                And that's part of it as well. Mr. Bienenstock says  
13      that he thinks he will file a plan or may file a plan in the  
14      next 30 days or so. That will deal with a lot of the issues,  
15      I would say with 99 percent of the issues that are built into  
16      these complaints.

17                So it does make sense to see whether these issues can  
18      be settled or not before we go all out and start dealing with  
19      1,500 defendants, and the motions to dismiss, motions for  
20      summary judgment, motions on the pleadings, et cetera, et  
21      cetera. We're happy to do that in a sense. We can do it, so  
22      it's not an impossibility. But from a case management point  
23      of view, we don't think that makes sense.

24                Now, obviously, does it have to be November 1st? No.  
25      It could be -- you know, I understand their concern, which is

1      hey, if there's a plan that's going full steam ahead while I'm  
2      stayed here, that's not good. But there's a safety valve in  
3      the Order that says they can move to terminate the stay and  
4      the Court for good cause can terminate the stay.

5           So there is a safety valve, and that is one of the  
6      biggest arguments here, which is what is the prejudice to  
7      them. Yes, nobody likes a stay, but there's a very precise  
8      safety valve that says that either the plaintiffs or the  
9      defendants can terminate the stay.

10          The defendants have to show good cause. I don't  
11        think that's a -- we didn't try to define what good cause is  
12        because that could take weeks to agree with everyone as to  
13        what that means. But the point is the Court has a lot of  
14        discretion.

15          And that's where I started with this, and I would end  
16        with this: There is no point in me arguing a lot about this  
17        because it's completely within your discretion as to whether  
18        it should be a stay or not. We think it makes sense, but if  
19        Your Honor doesn't think it makes sense, then we'll operate  
20        accordingly. But I think the Court has a lot of discretion in  
21        giving us more time to serve and on staying the litigation  
22        generally.

23          HONORABLE MAGISTRATE JUDGE DEIN: All right. But  
24        just clarify for me why you think you shouldn't serve as  
25        opposed to just -- because clearly you can serve an order that

1      says, I'm serving this, the litigation is stayed. There's no  
2      answer due for 30 days until after the stay is lifted.

3                    MR. DESPINS: We can serve. I would just say that in  
4      the context of clawback actions, it causes a lot of trauma  
5      because we're telling people that -- it's one thing to say  
6      that you're not going to get paid or you're going to get paid  
7      50 cents on the dollar. It's quite another to tell people on  
8      top of that, you need to give back X millions of dollars that  
9      you received three years ago.

10                  So that's why in the clawback context, we would  
11      really urge the not serving until there's greater clarity,  
12      because depending on what happens with the Plan, it may be  
13      that these actions are never pursued to completion. So why,  
14      you know, inconvenience these people and cause all this --  
15      because I know, I know what's going to come back because I  
16      already receive calls from some of these people who want to  
17      get me disbarred and all that.

18                  So I'm telling you that there's a lot of agitation  
19      over the clawback actions. So if we cannot serve those folks,  
20      I think that would aid in the process.

21                  And the lien avoidance, we can serve. It's just that  
22      I believe the Plan will address a lot of these issues, so why  
23      not see what's behind door number one, which is the Plan. We  
24      may not like it, in which case we can go forward, or people  
25      may think it makes sense to settle it.

1                   HONORABLE MAGISTRATE JUDGE DEIN: Let me ask you, in  
2 the Proposed Order that you had that you wrote that the  
3 plaintiffs themselves could decide to go forward without Court  
4 approval, what's the rationale behind that?

5                   MR. DESPINS: Well, because it's -- we're happy to  
6 make it subject to good cause. We're happy to make it -- I  
7 thought we had fixed some of that, but we're happy to make it  
8 completely parallel, Your Honor.

9                   HONORABLE MAGISTRATE JUDGE DEIN: All right. All  
10 right.

11                  MR. DESPINS: All right. Thank you.

12                  MR. STANCIL: Good afternoon, Your Honor. Mark  
13 Stancil from Robins Russell for the Ad Hoc GO Group.

14                  I'm going to try to cover some of the issues that I  
15 think are common to several of the actions, and my colleagues  
16 will address additional issues as well. So I won't cover all  
17 the waterfront, but I'll try to hit the main ones.

18                  Let me start, if I may, with what I gather has now  
19 been abandoned, which is the idea that these Complaints cannot  
20 be served. I would refer the Court to paragraph 20 of the  
21 motion which says that claims that good cause exists to extend  
22 the service deadline, because serving all domestic defendants  
23 within 90 days would be difficult, if not impossible -- I take  
24 it that is no longer the assertion. And so with -- I hate to  
25 beat a dead horse, but let me just --

1                   HONORABLE MAGISTRATE JUDGE DEIN: I'm with you on  
2 that.

3                   MR. STANCIL: Okay. Let me add one point in  
4 particular that's specific to the lien avoidance action.  
5 There's a lien avoidance and clawback. On the lien avoidance  
6 action, their Complaint alleges an address for each defendant  
7 because everybody had to file one proof of claim. So it's a  
8 question of sending out 400 first-class envelopes.

9                   Perhaps they need an order of the Court to say that  
10 the proof of claim address suffices for service, but I think  
11 they will get certainly consent from everybody here at our  
12 table today. We think that should be done immediately. We  
13 don't think there's any justification, certainly no good  
14 cause.

15                  The suggestion was made that there is -- this is a  
16 modest form of relief. Respectfully, we disagree. We've been  
17 trying to get clarity as to our liens for two years. We  
18 actually filed a declaratory judgment action in June of 2017,  
19 which the Oversight Board and others claimed was not ripe.  
20 They were correct in the judge's view and in the First  
21 Circuit's view, which was affirmed, but now it's clearly ripe  
22 because they've moved to avoid our liens. We need this  
23 resolved.

24                  Mr. Despins says, well, we should wait for the plan  
25 of adjustment, but we know they contest the liens. We know,

1 therefore, I assume we can infer, that a plan of adjustment  
2 will not give us credit for the liens. Waiting to see a plan,  
3 the premise of which is that there is no lien, doesn't  
4 accomplish anything. We need to get this done.

5 There's another suggestion made that -- well, the  
6 claim objection that's been filed against certain of the bonds  
7 would obviate the need for the lien avoidance action. That's  
8 both wrong and inefficient.

9 Let me tell you why on each count. It's wrong  
10 because there are certain bonds that they have not objected to  
11 for which a lien claim has been asserted, so whatever the  
12 result of the claim objection, the Court will still need to  
13 address the lien issue with respect to the as yet unobjected  
14 to bonds.

15 But let me tell you why I think it's just a bad idea  
16 as well. We're going to need clarity as to the status of  
17 those claims. Their assumption is, which we respectfully  
18 disagree with and hopefully we'll get around to getting in to  
19 Court to prove it, but their assumption is, well, they'll win  
20 the claim objection.

21 My assumption is they're going to lose it  
22 spectacularly, and then we're going to need to come in and say  
23 not only do we have claims on all of these challenged bonds,  
24 but they are secured claims for the reasons that we've  
25 outlined.

1           We have outlined them in a Motion to Dismiss that we  
2 and the Ad Hoc Group of Constitutional Debtholders filed  
3 yesterday. These claims have been well explained. There's no  
4 efficiency gain except to roll the dice and hope that they can  
5 get out from some of their bond claims before having to  
6 address the lien claims, with respect to the remainder. We  
7 should just get on with this and not have a six or 12 month  
8 delay baked in at the end of the claim objection.

9           HONORABLE MAGISTRATE JUDGE DEIN: Let me ask you  
10 this. I think you filed two motions to dismiss last night,  
11 right? Or was it just one?

12           MR. STANCIL: I intended to file, I think we intended  
13 to file only one --

14           HONORABLE MAGISTRATE JUDGE DEIN: I thought it was  
15 two different groups --

16           MR. STANCIL: We filed with the Morrison & Foerster  
17 firm, a joint motion.

18           HONORABLE MAGISTRATE JUDGE DEIN: Okay.

19           MR. STANCIL: And there may have been, if I have my  
20 facts straight, a corrected version filed that had to do with  
21 the signature block.

22           HONORABLE MAGISTRATE JUDGE DEIN: Among the late  
23 night filings.

24           MR. STANCIL: Well, we weren't noticing it for this  
25 Omnibus Hearing. I want to be clear about that.

1                   HONORABLE MAGISTRATE JUDGE DEIN: Okay. My question  
2 is whether it makes sense to take some time to try to figure  
3 out how to bring it in a uniform manner to the Court to have  
4 these issues resolved, as opposed to having hundreds of -- or  
5 even five or six or seven different motions.

6                   And that, to me, is why it might make sense to stay  
7 this for a finite period of time. I think everybody's now  
8 agreed that it's certainly -- an indefinite stay doesn't make  
9 any sense, but I'm trying to figure out whether it makes the  
10 most sense to do a finite stay within which period -- first of  
11 all, anybody can move to lift the stay if they think their  
12 issue is of critical importance. But it's also a time when  
13 some plan for bringing it before the Court in a unified  
14 fashion can be developed.

15                  MR. STANCIL: We certainly don't oppose a unified  
16 briefing schedule for the core legal issues, because that's  
17 what we have long sought. But may I suggest, what they're  
18 trying to do, and we see this with the shift in positions  
19 today, they're trying to play out every day of the 90 days of  
20 service, plus some extra, plus a -- they're just slow-rolling  
21 this to death.

22                  What I would submit is why don't we give them a  
23 deadline to serve that's maybe even a little ambitious. How  
24 about July 15th they serve, and then we'll have a Motion to  
25 Dismiss due 30 days after that? We can all get on a common

1 schedule.

2 I've already filed my Motion to Dismiss, and  
3 everybody is free to look at it as they want. We're all for  
4 that. But what we're hoping to avoid is this shifting  
5 rationales, let's wait for the plan, let's wait for this,  
6 let's wait for this. Let's get to court.

7 They've built this entire process, the plan, on claim  
8 objection, lien objection, litigation, litigation, litigation  
9 that they filed, but they are running like mad from having to  
10 answer any of it and we need to get on with it.

11 Some people are in the room negotiating this behind  
12 the scenes. We are not. They will not talk to us. They will  
13 not talk to many others. You will hear this from others as  
14 well. So I can infer from that what's going to be in this  
15 plan in the next 30 days.

16 We need to get this thing in court. They've chosen  
17 the litigation. We've got to get it moving. So we are all  
18 for a unified deadline, Your Honor, but let it be soon so we  
19 can actually get this done, instead of just teeing up two  
20 years of litigation that starts some indefinite form in the  
21 future.

22 HONORABLE MAGISTRATE JUDGE DEIN: Do you know when  
23 the original service deadline was?

24 MR. STANCIL: I think it was May 2nd, so I think --  
25 I'm not supposed to do math on the fly, but August 1. July

1       31st. Somewhere in the late July, early August timeframe.

2                   So if they could even get service done by that  
3 deadline, I mean, I think we could have motions to dismiss due  
4 on a standard deadline and we'd be just fine.

5                   May I just briefly address one other point, Your  
6 Honor? With respect to the clawback actions, there are -- and  
7 this is a problem that we have in this case that we're trying  
8 to resolve. There are clawback actions filed against  
9 challenged bonds, bonds that are already the subject of a  
10 claims objection.

11                  We're fine in staying the clawback portion until  
12 they've litigated the claim objection that they've filed, but  
13 there are other bonds, the PBA bonds in particular, and the  
14 2011 GOs that the UCC has objected to and the Oversight Board  
15 has not yet objected to. They filed a clawback action against  
16 those bonds.

17                  Count I says these bonds are all invalid, and the  
18 counts that follow are premised on that. We need that to be  
19 moving forward as well. So that's why we've objected to any  
20 stay of those clawback actions insofar as they are challenging  
21 additional bonds, but we're all pretending that they haven't.

22                  So I don't know what else to say except the bonds are  
23 either null and void in their view or they are not, but we  
24 can't have it both ways. And we need -- again, they're the  
25 ones who filed all the lawsuits. Let's start getting it

1 moving, these questions, and get some answers and get this  
2 case over with.

3 HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

4 MR. STANCIL: Thank you, Your Honor.

5 MS. MILLER: Good afternoon, Your Honor. Atara  
6 Miller from Milbank on behalf of Ambac. I don't want to  
7 rehash territory, but I do think this is an important juncture  
8 to make the point that what we're seeing here is really a  
9 continuation of the strategy that the Oversight Board has  
10 adopted since day one of these Title III cases. Namely, push  
11 everything to confirmation; put a plan; get some small,  
12 impaired accepting class, and steamroll everyone else. Put  
13 everything into a massive confirmation that cannot be heard.

14                   Mr. Bienenstock earlier this morning made a  
15 representation about using mediation to facilitate settlements  
16 and have a colloquy after that with Judge Swain where Judge  
17 Swain said, I'm going to take you at your word that you're  
18 going to use that.

I take Mr. Bienenstock at his word, but I listened very carefully to what he said, and what he said was we're going to file a plan. And for those of you who didn't sign on because you weren't included in the discussions and because this door was slammed in your face, then after the plan is filed, you can come in and talk to us about it. Then we'll go to mediation and we'll try to get you on side with a plan

1      that's already been proposed.

2                  From day one, creditors have been standing here  
3 trying to get declarations, trying to get other adjudications  
4 about their rights, about their property interests, about  
5 their liens. The answer has been, they're not ripe. They're  
6 not ripe. You can't listen to it.

7                  In HTA in particular, one of the critical pieces of  
8 their argument with respect to ripeness was well, you can't  
9 bring a claim related to whether or not the fiscal plan  
10 effects a taking because the fiscal plan is just a blueprint.

11                I reviewed a number of transcripts from the fall of  
12 2017, the summer, fall and winter of 2017 in front of Your  
13 Honor, oral argument in front of Judge Swain, and oral  
14 argument to the First Circuit. The Oversight Board  
15 consistently took the position that the fiscal plan is a mere  
16 blueprint with no legal effect.

17                There was a determination, Judge Swain's Order  
18 dismissing our Complaint related to clawback, and HTA relied  
19 on that representation by the Oversight Board. Now they file  
20 a motion that not only says that the blueprint actually has  
21 binding legal effect, but that the fiscal plan and the budgets  
22 actually reorder priority and can negate liens.

23                That's an issue. If they're going to throw out  
24 grenades, they have got to pull the pin and litigate it. They  
25 cannot throw a grenade, attach it to a trigger and put in a

1      motion that says we litigate when we feel like it. There has  
2      to be some resolution and some determination.

3                 This is not -- you know, Mr. Bienenstock argued in  
4      connection with respect to the second to last Lift Stay Motion  
5      that, you know, there are going to be a lot of people arguing  
6      about priorities. We're not arguing about priorities. We're  
7      arguing about property rights.

8                 This is like COFINA. These are the core fundamental  
9      threshold questions. Is the money, even the Commonwealth's,  
10     to be dealt with in a plan? This is not saying the  
11     Commonwealth has a fixed amount of money and we're going to  
12     fight about who has a right to it.

13                We are entitled to litigate whether or not the money  
14      that the Commonwealth is going to deal with -- and for the  
15      Court to address in the Plan, whether it even belongs to the  
16      Commonwealth or does it belong to the revenue bondholders.  
17      Does it belong to the instrumentalities to which that money  
18      was transferred by statute?

19                HONORABLE MAGISTRATE JUDGE DEIN: As it now stands,  
20      where do you see these issues being resolved? Some have been  
21      brought in various places. What's your overall view of the  
22      path of these issues?

23                MS. MILLER: I think they should be litigated in  
24      stand-alone cases where the property interests can be  
25      addressed appropriately, and then you take that, once you

1      define what the property rights are, and you put out a plan.

2                  HONORABLE MAGISTRATE JUDGE DEIN: But who  
3 participates in those cases? Is it all of the bondholders?  
4 How do you --

5                  MS. MILLER: I don't think all of the bondholders --  
6 I don't think unaffected bondholders need to participate in  
7 litigating over some of the threshold legal questions about  
8 property interests, right? It's either the Commonwealth's  
9 property or it's not.

10                 I expect that both the UCC and Oversight Board, and  
11 potentially even AAFAF, will come in and adequately represent  
12 the interests of those who say it's the Commonwealth's  
13 property. If people want to intervene, they wouldn't even  
14 have standing to intervene.

15                 HONORABLE MAGISTRATE JUDGE DEIN: But who would be  
16 the parties -- they're serving hundreds of people with these  
17 adversary complaints. Does everybody have the right to come  
18 in and raise the same defenses that you want to raise?

19                 MS. MILLER: Well, I think it depends what box you're  
20 in, right? So they're filing against different boxes. No, I  
21 don't think a GO creditor has standing to come into the HTA  
22 box and argue about anything.

23                 HONORABLE MAGISTRATE JUDGE DEIN: Right. But do all  
24 of the HTA, or do all of the GO? I want to make sure that  
25 everybody gets an opportunity to weigh in once or twice --

1 MS. MILLER: Right.

2 HONORABLE MAGISTRATE JUDGE DEIN: -- as opposed to  
3 hundreds of times.

4 MS. MILLER: So I think everybody does have the right  
5 to weigh in and should be given that opportunity, which is why  
6 I think Mr. Despins already said, service isn't the issue. In  
7 HTA in particular, there are only 143 defendants and they know  
8 who we are.

9 I think all of us should be served, and then there  
10 should be -- I don't dispute that there should be some  
11 coordinated schedule and some process put in place for trying,  
12 to the extent possible, to coordinate the briefing. That  
13 doesn't require an extended stay. It requires service, you  
14 know, at a minimum, according to the rules and on the schedule  
15 provided for under the Federal Rules.

16 And then, you know, the ordinary briefing with an  
17 expectation and maybe guidance from the Court about what you  
18 would expect in connection with briefing. I mean, certainly  
19 that's what's happening with respect to PBA, and I think it's  
20 working effectively.

21 HONORABLE MAGISTRATE JUDGE DEIN: And apart from  
22 these actions, so we have the claims objections, which are  
23 raising some of the issues. Where else are they being raised?  
24 Is it -- what's your understanding as to whether or not any of  
25 these issues are on a path to be resolved?

1           MS. MILLER: Well, our view, I mean, we filed a Lift  
2 Stay Motion, or our position is we don't have to lift the stay  
3 because the stay simply doesn't apply with respect to PRIFA,  
4 which is not directly addressed, but raises a number of the  
5 same issues in terms of whether or not the statutes that  
6 transferred certain revenue streams to instrumentalities  
7 transferred property interests, such that those revenues are  
8 no longer property of the Commonwealth.

9           So that's one avenue. And certainly they're  
10 currently up on appeal with respect to HTA in the First  
11 Circuit. The First Circuit hasn't ruled. The -- Assured's  
12 decision with respect to special revenues is subject to  
13 reconsideration, but ours addressed much more broadly all of  
14 these issues and whether or not, A, put them to the First  
15 Circuit but also argued that in the event that the First  
16 Circuit didn't want to, at a minimum, we should get a  
17 declaration that we're free to pursue those claims. In state  
18 court, we're awaiting decision. Oral argument on that was in  
19 January.

20           So I think there are other places where these would  
21 be litigated. And I'm not suggesting that they can't also be  
22 litigated in front of this Court. Right. So if we want to  
23 start a process, we can do that. I just don't know why  
24 everything has to be dealt with in the context of  
25 confirmation.

1           These are threshold questions that define what you  
2 can put in your plan. I mean, if COFINA had to be decided  
3 before we could turn to the Commonwealth, the issues of the  
4 revenue bonds also need to be decided before we can get to a  
5 Commonwealth plan.

6           THE HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

7           MR. CALLEN: Good afternoon, Your Honor. Jason  
8 Callen from Butler Snow, here on behalf of Financial Guaranty  
9 Insurance Company.

10           I just want to address, within the context of HTA,  
11 some of the questions that you've been having back and forth  
12 with colleagues of mine here at the counsel table.  
13 Specifically looking, in the context of HTA, do you need a  
14 stay for some type of management purposes?

15           As you heard from Ms. Miller, we've got only 143  
16 defendants in those cases. They're all -- there are four lien  
17 avoidance actions in HTA. That's it. Four lien avoidance  
18 actions.

19           They all raise pretty much the same -- exact same  
20 arguments in their complaints. Those can be easily managed.  
21 The summons can be served. Parties can get together and we  
22 can enter into an appropriate case management order that can  
23 tee those issues up. So I don't believe that any stay is  
24 necessary for management purposes.

25           Then the next question would be is a stay required in

1      HTA for resolution purposes, whether because there will be a  
2      resolution through settlement or resolution through other  
3      litigation?

4           Well, I can tell Your Honor we feel very confident  
5      there's not going to be a resolution through settlement or  
6      something through the plan of adjustment, because  
7      as Ms. Miller already laid out, the Board has made clear, and  
8      all the plaintiffs through this Complaint that they filed in  
9      HTA, that the plan of adjustment is going to declare that the  
10     funds that are in dispute in the HTA cases belong to the  
11     Commonwealth, that they don't belong to the HTA, and that  
12     there are no valid liens held by the bondholders.

13           We know that that's coming. We don't need to see a  
14     plan of adjustment, because the plaintiffs have said that  
15     those are coming down the line because of the fiscal plans  
16     that have been certified and because of the budgets that have  
17     been certified. While we heard earlier those weren't written  
18     in stone, they now say they are written in stone and that  
19     those will dictate the plan of adjustment.

20           So there is no settlement. We haven't been  
21     contacted, as we noted in our papers, about any possible  
22     settlement all this time. Well, we have, as others here at  
23     counsel table have been talking about seeking some type of  
24     declaration, some order from the Court as to the validity of  
25     our liens.

1           So these over here -- we hear a lot in this Court  
2 about gating issues. The validity of these liens, who owns  
3 this money, in -- these are gating issues that have to be  
4 decided in litigation before this Court. And the appropriate  
5 way to do it is in this litigation that has actually been  
6 filed, is now pending, and that we have also answered and  
7 filed a counterclaim and third party claims that address the  
8 specific provisions of PROMESA and other applicable laws that  
9 show that those liens are valid.

10           I also would say, Your Honor, that there really isn't  
11 any other litigation where we can be assured that these issues  
12 raised in the complaints in HTA, and in our answers and  
13 counterclaims and third party claims, where we can be assured  
14 that those issues will be decided.

15           Yes, it's true that there were adversarial  
16 proceedings in HTA that were seeking access through special  
17 revenue provisions under the Code incorporated through  
18 PROMESA. That is currently still up on appeal in the First  
19 Circuit. But it is highly likely that those decisions that  
20 will ultimately be rendered by the First Circuit will not  
21 decide the core issue of whether the liens are valid and who  
22 owns the funds here that are in dispute.

23           Judge Swain did -- specifically did not decide that  
24 issue when she granted the defendant's Motion to Dismiss in  
25 that case, and the First Circuit specifically didn't decide

1      that issue. So there's no outstanding litigation where those  
2      issues can be resolved.

3                So for those reasons, we would say there shouldn't be  
4      a stay. The plaintiff should get on with serving summons and  
5      complaints. And then we should agree upon or try to reach an  
6      agreement upon an appropriate case management order so that  
7      this litigation can proceed.

8                The one thing, and I'm hesitant to even mention this,  
9      Your Honor, but just because it's my one opportunity to get in  
10     front of you, although we strongly believe there shouldn't be  
11     a stay, if there is a stay, we have filed, as you know, a  
12     counterclaim, but also some third party claims, a limited  
13     number of third parties that we have included with our claims.  
14     And we would like, if there is any stay that's entered, we  
15     would like it to be clear that we can still serve copies of  
16     the Summons and our third-party claims on that limited number  
17     of individuals so that we don't run into any 90 days issues or  
18     anything of that sort.

19                And if Your Honor has no further questions --

20                HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

21                MR. NATBONY: Your Honor. Good afternoon, Your  
22     Honor.

23                HONORABLE MAGISTRATE JUDGE DEIN: I think we're at  
24     1.5 or something.

25                MR. NATBONY: I think I asked for one, but I'll take

1      1.5. I'm William Natbony from Cadwalader representing  
2 Assured.

3                 Your Honor, Assured looks forward to getting to these  
4 important issues as quickly as possible, but obviously would  
5 participate in any common management plan or briefing schedule  
6 that the Court issues to coordinate this.

7                 In my one minute now, I just wanted to point out that  
8 in our limited objection, we pointed out to some language in  
9 the proposed orders in the three motions that still provides  
10 that the plaintiffs, as a whole, can cause any stay to be  
11 lifted at their option without making a showing of good cause.

12                And whereas any single plaintiff or defendant would not have  
13 to show -- would actually have to ask for and get good cause.

14                So in the interest of uniformity, we would hope that  
15 that language would be adjusted in paragraphs three and four  
16 to allow for anyone, whether it be a single plaintiff, a  
17 single defendant, or all plaintiffs to actually make an  
18 application and show good cause to lift any stay that Your  
19 Honor orders. Thank you.

20                HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

21                MR. ZOUAIRABANI TRINIDAD: Your Honor, if I may.

22                Attorney Nayuan Zouairabani of McConnell Valdez representing  
23 AmeriNational Community Services, LLC.

24                We have requested three minutes to speak, but it  
25 seems some of my colleagues have taken some time. I would ask

1       you to grant us the indulgence to at least have some time to  
2 respond on our limited response.

3                     HONORABLE MAGISTRATE JUDGE DEIN: Go ahead.

4                     MR. ZOUAIRABANI TRINIDAD: Thank you, Your Honor.

5                     HONORABLE MAGISTRATE JUDGE DEIN: I think we've given  
6 a joint extra three minutes.

7                     MR. ZOUAIRABANI TRINIDAD: Thank you, Your Honor.

8                     Your Honor, movants had two bites at the apple to try  
9 to meet their burden. They have failed each time. Under Rule  
10 4(m), they need to show good cause. Good cause requires good  
11 faith and a reasonable basis for noncompliance to serve.

12                  Now, first of all, that second prong, based on the  
13 representations that were made to the Court, have gone out the  
14 window. They just admitted that they can serve and they just  
15 need basically to get around to do that. So right now the  
16 good cause requirements for granting an extension under Rule  
17 4(m) have gone out the window.

18                  Second of all, they argue in their pleadings that the  
19 fact that they are involved in other Title III matters  
20 prevents them to handle these adversary complaints. Well,  
21 that is a predicament of their own creation. Movants  
22 specifically asked the Court to approve some procedures in  
23 order to pursue the Complaints the way they have.

24                  Now, if that creates an issue, that is more akin to  
25 mistake or inadvertence and would not constitute good cause to

1      grant an extension under Rule 4(m). Movants also would not  
2      comply with permissive extension due to the fact of their  
3      failure to account for the prejudice that the extension would  
4      have on AmeriNat.

5               Now, Your Honor, AmeriNat did not ask to be sued. It  
6      was sued nonetheless, and it is ready to immediately respond  
7      and defend itself on the Complaints.

8               Now, during the presentations to the Court, movants  
9      argue that there's a safety valve in the procedures where the  
10     stay could be lifted if the defendants show good cause. Now,  
11     it is a little bit interesting, Your Honor, because those  
12     procedures, what they intend to do is invert the standard. It  
13     is movants who have the standard of good cause to get the  
14     extension, not the defendants who have the standard of good  
15     cause to get the stay lifted. Now, that should not proceed,  
16     Your Honor.

17              Finally, AmeriNat is in a very particular  
18     circumstance, Your Honor. Not only is it probably the largest  
19     creditor of HTA, it can easily be served. Now, with that in  
20     mind, Your Honor, I have to echo some of the things my  
21     colleagues have mentioned, which is that the movants decided  
22     to proceed with this, and at some juncture, they need to  
23     address and actually answer the Complaints or a motion to  
24     dismiss, or whatever responsive pleadings defendant chooses to  
25     answer. As they say in my neck of the woods, at some point

1      they either need to put up or shut up, Your Honor. So I  
2 believe that time has come now.

3                 There is no basis for the stay. However, we would  
4 not be opposed to some joint prosecution for the litigation in  
5 order to have everything done orderly, Your Honor. And in  
6 that sense, even if the Court were to consider a stay, we ask  
7 that that stay be bifurcated. AmeriNat has very particular  
8 defenses and a unique situation, and any such stay would be  
9 prejudicial upon us, Your Honor. Thank you.

10               HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

11               MR. BIENENSTOCK: Your Honor --

12               HONORABLE MAGISTRATE JUDGE DEIN: Let me just make  
13 sure, are there any other opponents?

14               (No response.)

15               HONORABLE MAGISTRATE JUDGE DEIN: We're done. Okay.  
16 Go ahead.

17               MR. BIENENSTOCK: I had not been part of this, but  
18 I've listened and wonder if I could have a few minutes both to  
19 provide some information that might be helpful to everyone and  
20 to respond to some unfounded accusations that were made  
21 against my client.

22               HONORABLE MAGISTRATE JUDGE DEIN: Why don't you take  
23 a couple of minutes.

24               MR. BIENENSTOCK: Thank you.

25               In terms of the information that might help everyone,

1      we know that the GO holders have asserted liens against the  
2      property -- certain of the property taxes and the clawback  
3      revenues. We've disagreed with them, but we know they assert  
4      them, because they filed a Complaint that went up to the First  
5      Circuit.

6                While we disagree with them, in the plan we file,  
7      we're going to provide that they get property taxes and they  
8      get clawback funds, because we have to pay them out of  
9      something, so we might as well pay them out of the things they  
10     say they have a lien on first. So that might make some of the  
11     issues go away. I just raise it for that purpose.

12               And as far as the accusations that were made by  
13     Ambac, just three or four quick responses. I was shocked to  
14     hear about my client's -- the Oversight Board's strategy and  
15     intentions. I don't know where they got this from, but they  
16     ended up saying that we took some very small agreements with  
17     some small classes with the intent of ramming through a  
18     confirmation.

19               Well, how could anyone be so silly as to think that  
20     Judge Swain would ever let us do that? That's never what we  
21     wanted to do or intended to do, and that can never happen in  
22     this Court. When we file a plan, to the extent there are  
23     overarching issues, I've actually said it I think at prior  
24     Omnibus Hearings, we might ask Judge Swain to tee up some of  
25     the issues, such as clawback revenues, at the disclosure

1 statement stage, because we know they're overarching. They  
2 have to be resolved. We might ask to tee up the GO priority  
3 at that time, because we know it has to be resolved.

4 And everything should be done in an orderly, fair  
5 way. We know the Court will require it. We want it that way.  
6 The Board wants it that way. And all of the aspersions and  
7 accusations to the contrary, I don't know where Ambac got  
8 them, but they're just flatly wrong.

9 Second, Ambac voiced anger that when they raised  
10 claims in the past, we didn't let them be adjudicated because  
11 of ripeness. Two things about that. One is some of their  
12 claims are just false. They claimed the right to turnover  
13 under Sections 922 and 928. They lost. It was decided on the  
14 merits.

15 Before they could have it decided by the First  
16 Circuit, another litigant had it decided by the First Circuit  
17 and Judge Swain was affirmed. So they've gotten  
18 determinations on the merits on some of their most critical  
19 issues.

20 Number two, the claims that were dismissed were  
21 dismissed because this Court and the First Circuit found the  
22 Court did not have subject matter jurisdiction to proceed. I  
23 don't know if they're angry at the law, at Judge Swain  
24 following the law, the First Circuit affirming the law or the  
25 Oversight Board saying what the law is, but I -- where does

1     that anger come from? That was the law. The Court didn't  
2     have jurisdiction to decide things that they posed that they  
3     should have known in the first place. So it's just  
4     inexplicable to us.

5                 The other accusations made -- I'm over time, so I'll  
6     just say we couldn't disagree more. But the Oversight Board  
7     is going to propose a plan and ask for scheduling that is fair  
8     to everybody and gets the issues resolved in the most  
9     efficient way. That's always what it intended to do and that  
10    is what it will do.

11                 Thank you, Your Honor.

12                 HONORABLE MAGISTRATE JUDGE DEIN: Thank you.

13                 MR. DESPINS: Just two seconds, Your Honor.

14                 We think there should be a stay of some kind. It's  
15     okay to build into the stay a case management process.  
16     There's no problem with that. And we're also okay to start  
17     serving the lien challenge summons.

18                 So we're -- where we have concerns is serving the  
19     clawback action, so I want to make sure that's not lost in  
20     this. But your proposal to have a case management process  
21     meet and confer, take place during that stay period, makes a  
22     lot of sense. There's no doubt about that. So I don't  
23     think --

24                 HONORABLE MAGISTRATE JUDGE DEIN: There's nothing  
25     that you've asked for that would prevent you from serving, is

1      there?

2            MR. DESPINS: No.

3            HONORABLE MAGISTRATE JUDGE DEIN: I mean, you've  
4        asked for an extension of time to serve, so you're the one --  
5        within at least the initial 90 days, are the one that's making  
6        the decision as to who to serve or who not to serve, right?

7            MR. DESPINS: Correct, but we don't want to let the  
8        90 days pass without an order saying it's okay.

9            HONORABLE MAGISTRATE JUDGE DEIN: I understand that.  
10        I want to make sure that I'm reading your proposed order  
11        correctly. You're not saying you can't serve within that  
12        period. So if you're making a distinction between the  
13        clawback cases and the lien avoidance cases, there's nothing  
14        that stops you from serving the lien avoidance matters  
15        promptly.

16            MR. DESPINS: I think that's where the danger is,  
17        that I'm not in the weeds on that issue -- I think we have  
18        most of the addresses for the lien avoidance. I'm pretty sure  
19        of that. But I know for a fact we don't have all the  
20        addresses for the clawback actions, for example. And that's  
21        why I'm concerned about saying absolutely we can serve all the  
22        lien avoidance actions.

23            We certainly don't think we could serve the 1,500,  
24        which includes the clawback, within that 90-day period,  
25        because we don't have all the addresses for the clawback. But

1      I think nobody is really pushing the clawback, in terms of  
2 service, at this stage.

3                And in terms of lien avoidance, I want to leave  
4 myself a little bit of room in case we don't have all the  
5 addresses. I think we do, but I'm not a hundred percent sure.

6                HONORABLE MAGISTRATE JUDGE DEIN: All right.

7                MR. DESPINS: Thank you.

8                MR. STANCIL: Your Honor, may I make a constructive  
9 suggestion?

10               HONORABLE MAGISTRATE JUDGE DEIN: That would be  
11 good.

12               MR. STANCIL: May I suggest a meet and confer on -- I  
13 don't know what to call this, but the unification procedure,  
14 start right away, and we can report back to you hopefully with  
15 a proposal at the next Omnibus? Because as you're aware, in  
16 the selective claim objection, we're coming up to Boston in a  
17 couple of weeks to talk about when we can start the procedures  
18 on that.

19               It's been five months since they filed the claim  
20 objection. I don't want to see the same thing happen on this  
21 lien avoidance thing. So if there's going to be a meet and  
22 confer, let's get it started so we can meet and come back with  
23 something.

24               HONORABLE MAGISTRATE JUDGE DEIN: So what I'm  
25 inclined to do is say let's enter a stay until September 1st

1      as of now. Prior to that, in time for the next Omni, I will  
2      -- I'll enter an order shortly. I'll have to think it  
3      through, but it would require a meet and confer and a proposed  
4      joint case management proposal.

5               Before September 1st, parties can file motions for  
6      relief from stay, but it really will have to be sort of an  
7      emergency as to why you would -- why your issue needs to be  
8      decided before we can have a uniform scheduling plan. And I'm  
9      trying to figure out, as I'm sitting here, and I'm not doing a  
10     really good job of it, of how this schedule fits in with all  
11     of the other schedules that we're going to be discussing in  
12     Boston. And I find myself unable to do that standing here.

13               I have to admit I started today thinking that there  
14     was a real service problem with getting addresses, and  
15     apparently that is not the motivating factor for this motion,  
16     so I need to shift gears on that. But I think for planning  
17     purposes, right now I will enter an order that there is a stay  
18     of proceedings except for service as of September 1st -- up  
19     until September 1st.

20               I will enter an order requiring case management  
21     before that, with something to be addressed at the next Omni.  
22     And at that time, if this stay is no longer appropriate,  
23     within the case management order, we can revisit it at that  
24     point as well. But as I see it now, that's sort of not a  
25     great extension beyond the service period that's already in

1 place. Okay?

2 Somebody else needs to talk to me? Okay.

3 MR. KISSNER: Good afternoon, Your Honor. Andrew  
4 Kissner, from Morrison & Foerster on behalf of the Ad Hoc  
5 Group of Constitutional Debtholders.

6 Just a clarification. As Mr. Stancil said before, of  
7 the five motions to dismiss we filed last night, we're  
8 informed by our local counsel that there may have been an  
9 error with one of them. The intention was to file a corrected  
10 pleading sometime today. I don't know if that's happened yet.  
11 I just wanted to confirm that by fixing this clerical error,  
12 we wouldn't be violating the stay --

13 HONORABLE MAGISTRATE JUDGE DEIN: See, I don't want  
14 you to do anything in a rush. I want you to get it right the  
15 first time.

16 MR. KISSNER: I understand. Understandable. I just  
17 don't want to violate the stay.

18 HONORABLE MAGISTRATE JUDGE DEIN: What are you  
19 saying? You're going to withdraw something you filed last  
20 night?

21 MR. KISSNER: No. I believe it's already happened.  
22 There was literally a problem with the signature block. It  
23 should be fixed by now, but in case it hasn't hit ECF yet, I  
24 just didn't want to be accused of violating the stay in doing  
25 that. That's all.

1                   HONORABLE MAGISTRATE JUDGE DEIN: Okay.

2                   MR. KISSNER: Thank you.

3                   MR. DESPINS: Just a clarification, Your Honor. So  
4 we would have until September 1st to serve as well? Is that  
5 what you intended or --

6                   HONORABLE MAGISTRATE JUDGE DEIN: Yes, as of now, but  
7 it's within your discretion. So you can serve before then.

8                   MR. STANCIL: I'm sorry, Your Honor. I was confused.  
9 I thought Your Honor was suggesting he should serve now -- I'm  
10 just saying this from a case management perspective. The  
11 sooner people are served, the sooner we can coordinate on how  
12 to get everybody --

13                  HONORABLE MAGISTRATE JUDGE DEIN: Correct, but he has  
14 until August 2nd to serve, regardless.

15                  MR. STANCIL: Correct. He has a list of all the lien  
16 avoidance defendants in his pocket.

17                  HONORABLE MAGISTRATE JUDGE DEIN: So I don't know if  
18 I'm shortening his time. So the lien avoidance, I'm hearing  
19 from counsel that he expects to serve sooner rather than  
20 later.

21                  MR. STANCIL: I haven't heard that. Is that correct?

22                  MR. DESPINS: It's really the clawback that we  
23 would --

24                  HONORABLE MAGISTRATE JUDGE DEIN: And the clawback  
25 does not need to be served prior to September 1st. The other

1      litigation, though, is stayed pending a case management order.  
2      And I will actually issue an order on what I want in the case  
3      management order when I have some time to think about it.

4                    MR. CALLEN: One point of clarification, Your Honor.  
5      You said that --

6                    HONORABLE MAGISTRATE JUDGE DEIN: I didn't say that  
7      much.

8                    MR. CALLEN: No, I know you didn't. I know you  
9      didn't. And I think that this covers it. When you said that  
10     the stay to September 1st wouldn't apply with respect to  
11     service, I just wanted to confirm that that wouldn't apply  
12     with respect to service of our third party --

13                  HONORABLE MAGISTRATE JUDGE DEIN: Correct.

14                  MR. CALLEN: Thank you.

15                  HONORABLE MAGISTRATE JUDGE DEIN: But you need to  
16     make it clear, if you're serving anything, that the litigation  
17     itself is stayed.

18                  MR. CALLEN: Understood, Your Honor. We will. We  
19     will.

20                  HONORABLE MAGISTRATE JUDGE DEIN: Wait. Let's talk  
21     about that. If you're going to serve that, do we need to  
22     enter an order that says that the litigation is stayed and no  
23     response is due -- I need to see what you're going to serve.

24                  MR. CALLEN: Maybe the way to resolve it would be  
25     this. If you would enter an order requiring, when we serve

1 our Summons with the Complaint, that we also serve a copy of  
2 your order that you're planning to enter that stays this  
3 litigation until September 1st, we can serve that all in a  
4 single package.

5 HONORABLE MAGISTRATE JUDGE DEIN: All right. So you  
6 need to do that.

7 MR. CALLEN: Yes. We can absolutely do that, Your  
8 Honor.

9 HONORABLE MAGISTRATE JUDGE DEIN: Okay. All right.  
10 Any more trouble I can get into in my two minutes up here?

11 All right. Thank you.

12 THE COURT: The next Agenda item is the status  
13 conference with respect to the PREPA 9019 motion proceedings  
14 that are scheduled for July. And I have some opening remarks  
15 to which I will expect counsel to react.

16 To begin with, I want to note that my instruction to  
17 the government parties was to confer with potential objectors  
18 and submit a joint status report concerning issues that they  
19 wanted to address at this pretrial conference. The Joint  
20 Status Report that I received reads more, even in its amended  
21 incarnations, like a collection of legal briefs or position  
22 papers, and it does not appear to me to demonstrate a  
23 meaningful attempt to narrow issues or suggest a path forward.

24 The arguments in the status report, many of which  
25 were repeated in the briefing concerning the two motions in

1      limine, have lead me to conclude that there's a fundamental  
2      flaw in the structure of the disclosure process contemplated  
3      by the current schedule for the 9019 motion and in the opening  
4      documentation on the 9019 motion itself.

5                 The 9019 motion was filed without any proffer of  
6      factual material, much less a proffer of facts sufficient to  
7      make out a *prima facie* case for approval of the relief sought  
8      in that motion. And although the 9019 motion filing includes  
9      legal discussion, that discussion is largely conclusory, and  
10     it lacks the thorough analysis of the legal issues that would  
11    be required to underpin an order approving a 9019 motion that  
12    would compromise claims that are allegedly significant in  
13    value.

14               So putting aside, for the moment, whether the motion  
15    should have been filed in that more fulsome manner, the  
16    current litigation schedule does not require that any  
17    declarations be filed until July 17. Frankly, I didn't  
18    realize that the government parties hadn't filed any  
19    declarations in support of their motion when I signed the  
20    Order setting the schedule. And I didn't notice the gap until  
21    I reviewed the 9019 motion in preparation for this hearing to  
22    see what anchors and guideposts there might be for resolution  
23    of the breadth and scope issues that are cued up in the Joint  
24    Status Report.

25               And so it seems to me that the lack of an opening

1 road map to the manner in which the government parties intend  
2 to justify, if you will, the 9019 relief that's being sought  
3 has lead to the current quite inefficient process in which we  
4 have parties arguing over discovery concerning topics that may  
5 or may not seriously be raised by the way the motion is  
6 advocated or which might be addressed, perhaps even adequately  
7 by factual proffers by the movants.

8 And we have here opponents and potential opponents of  
9 the RSA seeking very broad discovery in an attempt to put meat  
10 on the bones of the 9019 motion. And as I read it, they've  
11 essentially sought discovery on the full range of approaches  
12 that might underlie the conclusory statements contained in the  
13 9019 motion and the Proposed Order.

14 Therefore, I have concluded, subject to hearing  
15 responses to this proposal from the parties present today,  
16 that I will direct the government parties to file their  
17 opening factual declarations and a supplemental memorandum of  
18 law keyed to those declarations by the middle of next week.  
19 Those papers must provide detailed factual proffers and legal  
20 arguments that, if uncontroverted, would be sufficient to  
21 demonstrate the movant's entitlement to the relief sought in  
22 the 9019 motion.

23 Those papers, thus, will chart a potential pathway  
24 for approval of the 9019 motion and put the Court in a better  
25 position to assess the proper scope of the hearing and, if

1      any, necessary additional discovery in advance of the hearing.  
2      For the avoidance of doubt, the additional submissions must  
3      include discussion of precisely what relief the Court is being  
4      asked to approve, the legal authority for such relief, and  
5      facts, as opposed to conclusory assertions, that would justify  
6      granting that relief.

7                And now I'm going to say that same thing about three  
8      other ways, just to get the point across and share with you my  
9      thinking. So I expect that the submissions will not simply  
10     repeat the conclusory statements in the 9019 motion. And I  
11     advise the government parties that the submissions shouldn't  
12     take an aggressively narrow view of what is relevant to the  
13     9019 motion, which contemplates approval of arrangements that  
14     at this point appear to go beyond just setting a compromised  
15     value of the secured claims asserted by supporting  
16     bondholders.

17               Even if the Court were to adopt the narrow view  
18     advanced by the government parties in their papers so far, the  
19     Court will still need a record sufficient to establish the  
20     benchmark range of reasonableness for potential recovery on  
21     the bondholders' claims in order to determine whether the  
22     discount to the claims that would be the result of the  
23     settlement in the RSA falls within the range of  
24     reasonableness.

25               And in the filings to date, the government parties

1      have relied principally on the fact that the RSA is a deal  
2      struck by parties that were previously clearly at odds with  
3      one another. And that may well be one indicator of  
4      reasonableness, but I think that the scope and complexity of  
5      the deal demands significantly more to demonstrate that the  
6      compromise reached by the parties is fair and equitable.

7                For instance, the government parties have not sought  
8      to shed any light on their worst case/best case risk analyses.  
9      They haven't explained how they considered the larger macro  
10     economic effects of the deal, or otherwise demonstrated  
11     tangibly that they've given reasoned consideration of relevant  
12     factors that would merit the Court's deference to their  
13     business judgment.

14               Presumably there are analytical constructs underlying  
15     the compromise represented by the RSA, but the 9019 motion  
16     does not provide much detail or insight as to how or why this  
17     particular compromise was achieved. So I'm not concluding  
18     that no such showing meriting approval of the RSA is possible.  
19     Far from it. I'm simply pointing out that no such showing has  
20     been made at this point.

21               Additionally, the 9019 motion clearly contemplates  
22     approval of a deal that is far more complex and has  
23     ramifications for many more interested parties than a deal  
24     that simply sets a claim amount. And the Court must be  
25     persuaded that those aspects of the deal, such as imposing

1      charges, establishing priorities, making irretrievable  
2      pre-plan payments and exempting matters from regulation under  
3      local laws are within the Court's legal authority and  
4      supported by relevant facts and analysis.

5                And while the 9019 motion argues that certain aspects  
6      of the deal could be implemented by PREPA without Court  
7      approval, the 9019 motion as filed asks for Court approval of  
8      the RSA in its entirety, and therefore, seems to require the  
9      Court to determine whether that transaction as a whole, in all  
10     of its aspects, meets the standard for approval of agreements  
11     under Rule 9019.

12                Each aspect of the Proposed Order that the Court is  
13      being asked to approve must be adequately supported in fact  
14      and law. And you will remember that we did something of a  
15      back end exercise with this on the COFINA related motions, and  
16      I had hoped not to end up in that position again. That's why  
17      I'm trying to be as clear as I can today.

18                The government parties also have not provided much  
19      detail as to the overall process required to implement the  
20      RSA. It's not clear to me, at least from the face of the  
21      motion, what further legislative and regulatory steps will be  
22      required to implement the RSA. And frankly, that  
23      informational gap makes it difficult for me to determine, for  
24      instance, whether there is another proper forum for the  
25      broader set of interested parties to have policy concerns

1       about things to speak to.

2                 If people can go and lobby the legislature about  
3 whether necessary legislation imposing charges or whatever  
4 should be approved, yes, maybe that is a consideration that I  
5 should account for in determining the scope of the proof here.  
6 Also, it isn't clear to me which aspects of the deal the  
7 Court's being asked to approve conceptually that will require  
8 other changes to Commonwealth law versus what the Court is  
9 being asked to declare valid, binding and effective on the  
10 basis of an order issued by this Court.

11               This includes the description of modified charges and  
12 rate structures with no clear explanation of what legal  
13 authority there is for these changes. And so if the Court's  
14 being asked to approve and thereby validate these changes as a  
15 legal matter, the movants will have to provide legal authority  
16 for the Court's ability to do that.

17               Certain opponents of the RSA have contended that  
18 aspects of the proposed deal would prematurely decide aspects  
19 of a potential PREPA plan of adjustment and materially and  
20 irrevocably affect the rights of non-settling creditors. If  
21 the government parties disagree that the RSA would have that  
22 effect, they should lay out legally and factually their  
23 position as to how the RSA will preserve the rights of  
24 non-settling interested parties and have no constraining  
25 effect on the ability of non-participants to litigate issues

1      that are normally material to confirmation that the government  
2      parties contend are irrelevant to this 9019 motion practice.

3                To the extent the RSA would constrain such future  
4      opportunities, movants should provide factual support and  
5      legal authority justifying the Court's approval of the 9019  
6      motion, notwithstanding concerns about the preemption of the  
7      plan confirmation process.

8                To the extent that the Court's approval of the RSA  
9      would provide parties with rights to pre-plan distributions,  
10     the government parties should explain the legal and factual  
11     basis for making such distributions, and the government  
12     parties should also lay out the legal and factual basis for  
13     the administrative claims and exculpatory provisions that are  
14     included in the RSA.

15               I am proposing June 19 at noon, so that's a week from  
16     today at noon, as the deadline for the government parties to  
17     file the supplemental memorandum of law and supporting  
18     declarations that I have described. Thereafter, all of the  
19     parties, opponents and proponents, must promptly meet and  
20     confer to determine what aspects of the currently pending  
21     discovery and evidentiary motions can be resolved without  
22     Court intervention, and file, by the following Monday, a  
23     status report concerning what discovery and pretrial issues  
24     remain, the necessity for any further hearings on such issues,  
25     and a proposed schedule for any further discovery.

1                   As to the meet and confer process, the Court requires  
2 more than an 11th hour distribution of a template into which  
3 parties can plug disparate arguments. There must be genuine,  
4 timely interaction and an effort to reach realistic and  
5 efficient compromises of any disputed issues, as the time  
6 remaining for completion of discovery of a reasonable and  
7 appropriate scope will have been shortened somewhat.

8                   The 9019 motion must still be fully briefed by July  
9 17 to give the Court an opportunity to consider properly and  
10 appropriately the parties' various positions.

11                  And so now, Counsel, I will hear your responses to  
12 these remarks. Mr. Bienenstock.

13                  MR. BIENENSTOCK: Your Honor, Mr. Despins requested  
14 ten minutes for us to talk first. Would that be okay with the  
15 Court or would you like me just to --

16                  THE COURT: That's fine. A ten-minute break has been  
17 requested, and so everybody be back in your seats at 3:25 by  
18 the clock in the courtroom, which is about 13 minutes from  
19 now. Thank you.

20                  (At 3:11 PM, recess taken.)

21                  (At 3:33 PM, proceedings reconvened.)

22                  THE COURT: Please be seated.

23                  Mr. Bienenstock.

24                  MR. BIENENSTOCK: Thank you, Your Honor. And thank  
25 you for the recess. Martin Bienenstock of Proskauer Rose,

1       LLP, for the Oversight Board, as representative of PREPA.

2                     Your Honor, we had discussions both with Mr. Despins,  
3 with Wachtell, for the fuel line lenders, and came to a number  
4 of conclusions, part of which are requests that I'd like to  
5 advise the Court of. And I'd then very briefly like to go  
6 over some of the Court's comments about the RSA, because we  
7 think all of the paper might have given the Court -- when I  
8 say we, I'm just speaking for the Oversight Board and the  
9 government.

10                  We also -- the government was part of the discussion  
11 outside. All of the paper might have given the Court the  
12 wrong impression as to what the Court's being asked to do in  
13 the motion. And I think it would be good for us to explain  
14 our view to Your Honor, because that may have something to do  
15 with how we go forward.

16                  In terms of the schedule, what the government, the  
17 Oversight Board, and the objecting parties, and I'm speaking  
18 to the Committee and the fuel line lenders, would like to do,  
19 is to use between now and this coming Monday to file a new  
20 joint status report with Your Honor attempting to narrow the  
21 issues and set a schedule, but also because we think that some  
22 of the issues probably won't be consensually resolved, to see  
23 if Your Honor could give us a follow-up hearing in New York  
24 sometime next week to deal with the issues that will be  
25 identified in the new joint status report.

1           We don't think, for several reasons, we can file the  
2 declarations and brief, et cetera, a week from today simply  
3 because each of our clients, and especially the government,  
4 simply require a lot of time before they sign off on  
5 declarations and things of that sort. And it will take more  
6 time. That we will propose in the status report that we would  
7 file Monday, if it's okay with the Court.

8           We're -- because our clients aren't here, we don't  
9 have authority today to agree on new schedules, but I think  
10 it's clear from what I've said, that a new schedule may arise  
11 out of what we file Monday, because we know that the Court  
12 needs -- needed to have everything briefed, et cetera, by the  
13 dates the Court previously ordered. And if that turns out to  
14 have to be delayed, other things may have to be delayed, but  
15 we're not in a position now, we don't have authority now to  
16 agree on changing dates.

17           In terms of the -- what we're asking the Court to  
18 approve -- I want to go through the RSA very briefly, because  
19 our view of what is at issue here is different from what we  
20 think the Court thought it was. And we take full  
21 responsibility for the fact that the Court could have come to  
22 its conclusion because we're asking Your Honor to approve the  
23 whole RSA.

24           It seemed like a good idea at the time, and it may  
25 stay a good idea, but I want to explain what's inside it,

1      because we don't think it's everything Your Honor thought it  
2      was.

3           To the extent the RSA provides for payments to  
4      various creditors, to the extent it provides for the accrual  
5      of a claim, to the extent it provides for rates to be changed,  
6      if that were all it did, we wouldn't be in court in the first  
7      place, because since Congress didn't make Section 363 of the  
8      Bankruptcy Code applicable to Title III cases, we can use  
9      property without prior Court approval.

10           And in fact, all along, as Your Honor knows in this  
11     case, the creditors would have been thrilled had we just  
12     raised rates earlier, and thought we should have, and there  
13     was -- no one on any side ever thought that Title III  
14     required -- would require Court approval for that. And it  
15     wouldn't. What a debtor charges for its services is what a  
16     debtor charges, and it doesn't need Court approval for that.

17           To the extent Your Honor read the RSA -- so, well,  
18     let me go back to -- that's what we don't need Court of  
19     approval for. The reason we were asking for Court approval,  
20     and both sides, was this. Early in this case, as Your Honor  
21     saw, the Ad Hoc Creditors and others filed a motion for stay  
22     relief so they could request the appointment of a receiver.  
23     And they asserted in their pleadings, and they attached all  
24     the documents, that they are oversecured; that not only the  
25     net revenues, they said all revenues, but the covenant to

1      raise rates, the receivership remedy was all a package of  
2      collateral; and when you put it all together, they were  
3      oversecured.

4                 The deal we've struck with them is that although they  
5      were saying they're oversecured, a hundred percent plus  
6      interest, they're getting approximately 67 percent of their  
7      principal claim -- or 67 percent of their claim, and then if  
8      that's paid, another note for ten percent, which is less  
9      certain. So it's 67, plus maybe a little more.

10                THE COURT: And some time value of money provisions  
11      in the form of administrative claims --

12                MR. BIENENSTOCK: Yes. Yes. Yes.

13                THE COURT: -- and payments.

14                MR. BIENENSTOCK: Yes.

15                Now, from the debtors' point of view, the government  
16      parties' point of view, that is a great deal we should grab,  
17      because what they're saying is they're willing to commit that  
18      no matter what their claim is, the ultimate plan that's  
19      confirmed only has to give them treatment giving them the 67  
20      percent, plus maybe a little more.

21                So to limit their claim so that that's all they're  
22      entitled to, that's why we wanted -- that's why, from the  
23      government parties' point of view, we wanted Court approval,  
24      to reduce their allowed claim to that. I think it was  
25      reducing them to like the 67 to 77, 74 cents, whatever it

1      turns out to be.

2                    THE COURT: Now, as I think it was probably the  
3 Committee pointed out, and as I recall from last summer, the  
4 debtor was -- or two years ago, whenever the receivership  
5 motion was made, the Oversight Board and the government were  
6 arguing or PREPA were arguing that the -- if there is  
7 collateral at all, it's net revenues; there won't be any net  
8 revenues; the rate raising covenant is not collateral in the  
9 sense of the Code; therefore, the claim to be settled is worth  
10 zero; and if you thought about it in this context, you'd say,  
11 well, it's zero augmented by the always present chance of an  
12 aberrant result, and so that would be the bottom end of a  
13 range. Whereas the way you've articulated the rationale for  
14 the deal here assumes that there's a very, very strong case  
15 for all revenues are oversecured, and getting that discounted  
16 by 25 to 35 percent is a great deal.

17                   Let's wait for the phone.

18                   Testing. Would our monitor please send a message as  
19 to whether this can be heard?

20                   Testing. Would our monitor please send us a message  
21 if you can hear this? All right. Apparently we're back up.

22                   And so what I was saying just before we dropped was  
23 that there was another scenario last summer that might support  
24 different economics and different assessment of the value of  
25 the deal.

1                   MR. BIENENSTOCK: Exactly, Judge. And I want to  
2 emphasize, that was in the context of the Motion for Stay  
3 Relief, and we were operating based on the jurisprudence,  
4 which we would still be operating on. That -- you look at  
5 that from the collateral value on the petition date or the  
6 date they're asking for stay relief, and whether it's going to  
7 decline from there, and we said the collateral value was zero.

8                   That is a different inquiry, and the Bankruptcy Code  
9 makes clear that valuations for stay relief purposes are for  
10 stay relief purposes, are not necessarily valuations for  
11 confirmation purposes. So with confirmation, if we're now  
12 dealing with what is the value of their secured claim going  
13 forward, we could argue it's quite small, and we may end up  
14 doing that. And we have facts and law. But on the other  
15 side, they're going to say things that -- I can't speak for  
16 them obviously, but the arguments we would anticipate having  
17 to deal with are: What utility keeps rates unchanged forever?  
18 And why are you not raising rates? And if you do this great  
19 transformation, you may have a greater net revenue than you  
20 had before, because you're only doing it to improve things.  
21 And on and on and on.

22                   So there's a contest there. And basically, you know,  
23 it's pretty clear, we came out believing that locking in the  
24 67 plus was better than rolling the dice and having that  
25 contest.

1           Another issue, though, that I wanted to try to  
2 clarify goes back to what Your Honor is being asked to approve  
3 by approving even the whole RSA. All the RSA requires and  
4 allows us to do, us being the debtor, is to come to this Court  
5 subsequently with a plan, and a plan that proposes the  
6 treatment of the Ad Hoc Creditors and Assured in the manner  
7 set forth in the RSA.

8           The key point is the Court is not being asked to say  
9 at the RSA approval hearing that that treatment is legal or  
10 will be -- can be part of a confirmed plan. All we're  
11 committing to, the debtor is committing to the ad hocs, we  
12 will propose that treatment that all in all gets you your 67  
13 plus return, but it's going to be up to the Court to confirm  
14 or not to confirm a plan that does that to your claim.

15           And as for the fuel line lenders, and the unsecured  
16 claimholders who are saying what's left, the reason we said  
17 that's really out of bounds for this hearing is if we don't  
18 give them enough to make the plan confirmable, Your Honor will  
19 deny confirmation.

20           So, I mean, we really took their issues as to what's  
21 left as sort of a negotiating thing that we're supposed to put  
22 something on the table. We will be doing that. We're  
23 speaking to them, but we don't know what it has to do with the  
24 RSA, because the Court's not saying that anything in the RSA  
25 will ultimately be confirmed or approved or legal.

1           Of course all we're doing is we're getting the Ad Hoc  
2 commitment that if we bring a plan that pays them their 67  
3 plus, they will vote to accept that plan, and all the other  
4 confirmation issues are left for confirmation.

5           THE COURT: But your RSA requires, and this may just  
6 be the reality of the world, but it requires that you have  
7 them over a threshold and in numbers that will give you a  
8 consenting impaired class --

9           MR. BIENENSTOCK: We have that.

10          THE COURT: Yes. And so that does put the rest of  
11 the objecting world into, you know, a particular position of  
12 potentially being crammed down, and puts them in that  
13 standing. And that's the way the Code works.

14          MR. BIENENSTOCK: Let me put it a different way,  
15 Your Honor, because this may make the case. We don't need any  
16 Court order to bring that plan to the Court. And we don't  
17 need -- and as I said, the Court, when we bring it, can  
18 confirm it or not confirm it.

19          We don't need any Court order to make payments  
20 because of the 363 issue. We don't need a Court order to  
21 change the prices. We want the Court order because we don't  
22 want the Ad Hocs to say tomorrow, 67 is too low, now we want  
23 77 or 87 or something like that. We don't want the deal to  
24 fall out of bed. But approving the R -- so from our point of  
25 view, approving the RSA locks them into accepting that

1 treatment.

2                   Virtually everything else going on, other than the  
3 exculpation -- but that's not a normal exculpation where all  
4 officers and directors are exculpated for everything to do  
5 with the reorg. That's a tiny, narrow exculpation of the  
6 indenture trustee, who's being asked to sign a tolling  
7 agreement on the lien challenge so we can bring it later.

8                   And indenture trustees never want liability for  
9 anything. But, I mean, the exculpation is as narrow as I  
10 think anyone can ever find. And what it covers, I think, in  
11 that situation is minor.

12                  But that's the exculpation thing, and I -- well, I  
13 shouldn't go further on that, but that's how narrow it is. A  
14 confirmation I'm sure will put a larger exculpation in the  
15 plan, but again, the Court's not being asked to approve that  
16 now. And it will or won't when it comes up based on the facts  
17 and law then.

18                  As far as the local laws, the -- well, we think the  
19 government, which is a party to all this, is going to get all  
20 that's necessary to happen, as far as rates and legislation.  
21 We think we could probably in a plan do it based on Section  
22 305, which says this Court can interfere with governmental and  
23 political powers with either Oversight Board consent or in a  
24 plan. And the Court would have both. But we don't think  
25 we'll have to test that here, because the government wants

1      this as much as the Oversight Board wants it.

2                 So we don't think this Court would be going out on a  
3 limb on any local law, certainly not in approving the RSA. If  
4 in the plan we ask the Court to declare that something in the  
5 plan preempts some law, okay, then that's an issue for  
6 confirmation. And the Court will again agree with us or not,  
7 grant it or not, but we're not asking for that now.

8                 So that's why we're somewhat taken aback at how broad  
9 the Court thought this was, because we're just locking in the  
10 Ad Hocs not to ask for more.

11                 THE COURT: Well, I got where I got today by, you  
12 know, looking at two lanes of a road and the information that  
13 I had in those two lanes of the road. You know, one was this  
14 joint status report with very disparate views. The other was,  
15 frankly, first looking -- reading your motion, looking for  
16 declarations and not finding them. And then going through  
17 your Proposed Order and seeing what sorts of findings of fact  
18 and conclusions of law you were asking me to make in the  
19 Proposed Order; and, you know, finding that a conclusion that  
20 the entire RSA is fair and reasonable or whatever is supported  
21 by an assertion in the motion that the entire RSA is fair and  
22 reasonable, and, you know, valid and binding and wonderful.  
23 So you might want to look at what rulings you're asking me to  
24 make.

25                 When I asked you that same question at the COFINA

1      confirmation about certain provisions being valid and binding  
2      and wonderful, I'll say, because it's late in the day, the  
3      answer on certain legal propositions was, well, you are  
4      approving -- you can make this law essentially, because you  
5      are approving the compromise that we reached. And in the  
6      compromise, we're creating a structure that doesn't otherwise  
7      exist. And we are invoking your power to make that happen.

8                And you know, there were further detailed legal  
9      arguments as to why that should be, but those arguments only  
10     came after I specifically asked for them twice. So I'm asking  
11     you to be precise as to what you want me to do and how you  
12     think I should get there. And that would give me some grip to  
13     hold onto in evaluating arguments by a myriad of people from  
14     other perspectives that, well, if what they really want you to  
15     do is this, then they'll have to show that, and so on and so  
16     forth.

17                MR. BIENENSTOCK: Right. Well, I assume -- I've  
18     explained what the government parties want out of it. We want  
19     to lock in the reduced secured claim. I assume the creditors  
20     want out of it to have an order making us do what we promised  
21     to do, which is to propose the plan giving them that treatment  
22     and make the payments that we're already making, et cetera,  
23     and raise the price as we said we'd do. All of which -- as I  
24     explained earlier, if that were all, we wouldn't have to come  
25     to the Court. It's just to deal with the claim that we do.

1                   THE COURT: And so for instance, on raising rates,  
2 when you say PREPA can do that on its own, you're not asking  
3 me to approve an extraordinary and novel means of rate setting  
4 that wouldn't otherwise involve some sort of consideration of  
5 public input and all sorts of things?

6                   MR. BIENENSTOCK: I don't believe so. I may stand  
7 corrected by the government parties, but I think they had  
8 enough elbow room in the current rate structure to move things  
9 as they've done already during this case. They've lowered and  
10 raised back rates, and they had a bunch of room to do things  
11 like that.

12                  THE COURT: It would be nice to know.

13                  MR. BIENENSTOCK: Now, I assume that -- as I said,  
14 I'm sure the creditors want us locked in to do what we say  
15 we'll do under the RSA. And you know, if I were them, I would  
16 have said what they said, which is ask for the RSA to be  
17 approved. And I don't know if they'll move off that, but I  
18 think that the -- it's the impact of what approval of the RSA  
19 means that I wanted to explain to Your Honor.

20                  There's only one thing in there that it really means  
21 we're reducing their claim. And yes, we're going to be  
22 ordered to do what we say we'll do, but we want to do that  
23 anyway.

24                  In any event, I don't want to take up more of the  
25 Court's time. I wanted to explain what we thought we were

1      asking of the Court, and the problem we have with the schedule  
2      and ask if it's okay if we submit a revised joint status  
3      report on Monday.

4                Others may want to speak. I'm not sure.

5                THE COURT: Yes. Mr. Friedman has been up and down a  
6      couple of times. So let me hear from Mr. Friedman and then  
7      I'll respond to your question.

8                MR. BIENENSTOCK: Thanks.

9                MR. FRIEDMAN: Peter Friedman. We join with  
10     Mr. Bienenstock. We think that for certain aspects, these are  
11     within PREPA's powers. To the extent other approval is  
12     necessary, we think it's the kind of approval -- for example,  
13     I think there are some things that may require legislative  
14     approval. Some things which arguably we'll have to assess,  
15     whether they are present issues, but we don't think they are  
16     Court approvals.

17               I also want to say, I don't think it will be a  
18     surprise, we think that RSA issues, RSA approval, what's  
19     necessary to get from the Court, what can be given here is  
20     very different from other circumstances where the government  
21     is not actually a party.

22               So I don't want to be again in a position where  
23     somebody says, oh, you were silent when Mr. Bienenstock said  
24     this can be done without Court approval or this can be done  
25     under 305, and the Court can permit interference.

1                   PREPA and AAFAF are both parties here. We think that  
2 makes it categorically different. I don't need to get in a  
3 debate about whether I'm right or wrong, but I just want to  
4 lay that marker down and provide the information necessary for  
5 you to at least think about where we come out in terms of who  
6 has to approve what.

7                   So thank you, Your Honor.

8                   THE COURT: Thank you.

9                   Yes, sir.

10                  MR. KLEINHAUS: Good afternoon, Your Honor. For the  
11 record, my name is Emil Kleinhaus from Wachtell, Lipton, Rosen  
12 & Katz. I haven't been here in a couple of years. I'm happy  
13 to be back.

14                  THE COURT: Thank you. Good afternoon.

15                  MR. KLEINHAUS: I represent Cortland Capital Market  
16 Services, LLC, as successor administrative agent under a 2012  
17 credit agreement that was originally entered by PREPA and a  
18 group of Puerto Rico banks, with Scotia Bank of Puerto Rico as  
19 agent. We formerly represented Scotia. We now represent  
20 Cortland as an administrative agent on a facility of 550  
21 million dollars in principal amount of fuel lines which are  
22 loans that were made to PREPA to finance fuel purchases.

23                  There's a separate facility owned primarily by funds  
24 advised by Solus Capital Management of approximately 150  
25 million, so in total, the fuel lines are approximately 700

1      million dollars of debt, and other than the bonds, are the  
2      principal financial creditors of PREPA.

3                 The fuel line lenders were fully involved in  
4      pre-petition negotiations on an RSA, were a party to the  
5      pre-petition RSA. Unfortunately, despite trying on multiple  
6      occasions to engage with the Oversight Board and the  
7      Commonwealth post petition, we have not been able to get  
8      traction on a post-petition negotiation, and we are therefore,  
9      constrained to object to the RSA.

10               Just a couple of comments in response to  
11      Mr. Bienenstock. First of all, to Your Honor's comments at  
12      the beginning of the hearing, we agree with the approach that  
13      Your Honor has set out, because one of the things I was going  
14      to say is we were getting set up here for a situation where in  
15      light of how little the Oversight Board said in their opening  
16      brief, particularly on the issues pertaining to my clients and  
17      the 700 million they're owed, we were going to have a reply  
18      brief in which the entire case was made there. And then we  
19      were going to end up with lots of substantive submissions  
20      right before the hearing, which is precisely what the Court  
21      said at the beginning today you were hoping to avoid.

22               So I think an approach that requires a much more  
23      robust position from the parties at the outset, which frames  
24      the issues and allows the issues to be addressed in hopefully  
25      an organized way, is certainly preferable to what's happened.

1      So we agree, and Your Honor was directing it anyway, but I  
2 note our agreement with that.

3                  To Mr. Bienenstock's comments about the scope of the  
4 hearing, I'm not going to repeat what was in our section of  
5 that Joint Pretrial Report, but I do want to point out that in  
6 addition to the objections that the Creditors' Committee will  
7 be raising to the settlement, and we expect to join in some or  
8 many of those objections, we have a very particular problem  
9 with this RSA. And the very particular problem is that our  
10 fuel line is intended to be and was senior to the bonds from a  
11 priority perspective under the pre-petition agreements, under  
12 pre-petition resolutions, under pre-petition offering  
13 memoranda to the bonds.

14                  And we believe that this RSA, contrary to what the  
15 Oversight Board has submitted, does not leave the fuel lines  
16 unprejudiced and with their rights reserved for a plan, but  
17 rather, in certain ways that can't be reversed, essentially  
18 subverts that priority scheme by, number one, allowing  
19 payments, significant payments out in the opposite of the  
20 priority scheme, because what the priority scheme said, if  
21 PREPA raises rates, that has to be used first for current  
22 expenses, and everybody agreed that the fuel lines were a  
23 current expense. And only after current expenses are paid can  
24 the bonds get paid. This RSA suggests, dictates that the  
25 opposite is going to happen.

1           There's also a most favorite nations provision in  
2 this RSA which prevents the Oversight Board from entering into  
3 any agreement with our clients, the fuel line lenders, on  
4 terms that are better than the bond terms, which again locks  
5 in the Oversight Board not to respect our priority.

6           There was even a provision in this agreement that  
7 says that the Oversight Board can't enter into any kind of  
8 restructuring agreement with the fuel lines without the  
9 bondholders' approval, and there we believe the Oversight  
10 Board is essentially giving the bondholders a veto over future  
11 negotiations which we hope to have with them.

12           And Mr. Bienenstock said no approval is needed.  
13 There is a significant body of case law that we intend to  
14 invoke in our objection, starting from the Supreme Court,  
15 going down to the Circuit Courts, in cases like *Iridium* and  
16 *Aweco*, and a number of cases in this district which we cited  
17 in the Pretrial Report regarding situations in which, outside  
18 of a plan of reorganization, distributions can be made,  
19 priority rights can be not honored, and essentially the  
20 parties' rights that would otherwise be determined in the plan  
21 context are instead determined in the context of a settlement.

22           If the Oversight Board's position is going to be that  
23 despite all of the plan provisions in PROMESA, the government  
24 can simply disregard priority rules and essentially lock in,  
25 dictate the provisions of a plan through a pre-petition

1      settlement, that's a legal dispute that's going to have to be  
2      resolved by this Court, because we certainly do not agree with  
3      that. And I didn't want to let that comment pass without  
4      responding.

5                Lastly, Your Honor, to the point about the way  
6      forward, Mr. Bienenstock told me before he got up about a  
7      pre -- an additional report being submitted on Monday. We  
8      don't have any problem with that, but we do think if there's  
9      going to be an additional report, we should avoid the  
10     situation we had in the last report, which is round two of the  
11     parties just stating very disparate positions.

12              What I hope we can do is actually zero in on what the  
13     Oversight Board's position's going to be on this hearing. And  
14     on the priority issue in particular, we've been trying to get  
15     clarity on that, because if what the government parties are  
16     saying is they are not going to put priority at issue at this  
17     hearing, and moreover, they're going to assume the fuel lines'  
18     priority will be respected in the context of this hearing and  
19     argue that this can be reviewed anyway because, for example,  
20     there's no need for Court approval, that's one thing. That's  
21     a targeted, narrow hearing where the priority issue is  
22     reserved for another day. But we're entitled to argue that we  
23     have priority, and this settlement violates that.

24              But the Oversight Board's not contested that at the  
25     hearing. Instead, what they're arguing is this should be

1      approved regardless of priority. But in contrast, if the  
2      Oversight Board members want to make this hearing into a  
3      dispute that would otherwise be in a plan context or an  
4      adversary proceeding, and without objecting to our proof of  
5      claim which set forth the current expense position very  
6      clearly, without bringing an adversary proceeding, without a  
7      plan fully litigating rights that would otherwise be  
8      determined in a plan context, then we're going to have to be  
9      entitled to take appropriate discovery on that issue, and this  
10     becomes a much messier hearing.

11                And for due process reasons and otherwise, we're  
12     going to have to make a full case and we're going to be back  
13     in front of this Court and back in front of Judge Dein, as we  
14     were going to be on Friday, making our case as to what we need  
15     to have a fair hearing. So I'll stop there.

16                I also wanted to confirm, I understood Your Honor to  
17     be saying in light of the process that's going to go forward,  
18     we will not have the hearing with -- on the Motions to Compel  
19     on Friday. I'm open to discussing that. I just wasn't  
20     totally clear. That's a reasonable outcome given Your Honor's  
21     direction. I just wanted to make sure that was clear one way  
22     or the other.

23                THE COURT: Thank you.

24                And as to that last point, my intention, and jointly  
25     intended with Judge Dein, was to see where we come out with

1 respect to this recut of the schedule and to -- she was going  
2 to come back up here, and entertain a discussion as to whether  
3 there was anything useful to be done with a Friday hearing  
4 date and whether there is certain discovery that, everyone,  
5 you agree should go forward, whether that's controversial or  
6 not and whether the Friday hearing is necessary.

7 And so I think I will still leave that question to be  
8 answered after this discussion is completed.

9 MR. KLEINHAUS: Thank you.

10 THE COURT: Thank you.

11 Mr. Despins.

12 MR. DESPINS: Good news, Your Honor. I will not say  
13 very much. I know it's late in the day.

14 Unfortunately, I disagree with pretty much everything  
15 that Mr. Bienenstock said. That's all I need to say. I'll  
16 keep my powder dry on that.

17 In terms of the hearing on Friday, I don't think it  
18 makes any sense to go forward with that given what has  
19 transpired. And I don't think the government parties disagree  
20 with that, but they'll speak for themselves. Thank you.

21 THE COURT: Thank you.

22 Yes, ma'am.

23 MS. MENDEZ COLBERG: Good afternoon, Your Honor.

24 Jessica Mendez Colberg on behalf of UTIER and Sistema de  
25 Retiro de los Empleados de la Autoridad de Energia Electrica,

1      the pension plan, or the PREPA.

2                Just briefly, Your Honor, we wanted to state that we  
3      are in the same position as the fuel line lenders in terms of  
4      the priority that the RSA prejudices in terms of UTIER and the  
5      members of the pension system due to the statement of the  
6      trust agreement of 1974 that states that the authority has to  
7      convey all the general funds that will be used first for the  
8      payment of the current expenses. And in the definition of  
9      current expenses, it is included, the payment of the Pension  
10     Plan.

11               So we stand at the same position of the fuel line  
12     lenders, and we agree that the information that the Court has  
13     requested from the government parties to supplement the  
14     motion, the 9019 motion, is necessary to address that issue.

15               THE COURT: Thank you.

16               Did anyone else wish to be heard? Yes, sir.

17               MR. CINTRON GARCIA: Good afternoon, Your Honor.

18     Carlos A. Cintron Garcia representing Somos, Inc.

19               Your Honor, I wanted to be brief. The Oversight  
20     Board had issued a motion in limine seeking to exclude expert  
21     testimony by proposed interveners in this case. And regarding  
22     your initial statements regarding this motion in limine, I  
23     wanted to clarify your position on this motion.

24               We propose that our interventions are crucial to this  
25     process, as you well stated and we agreed that this process of

1      the 9019 motion must consider crucial matters as to the impact  
2      on consumers where -- because this issue is in very -- it's  
3      crucial to whether this settlement will be, realistically  
4      speaking, even feasible.

5            We -- if this settlement is predicated on consumers  
6      actually complying with whatever means of rate revision which  
7      might have to be taken, it would require that consumers  
8      actually play their part in these rate revisions. If  
9      consumers do not take a part in or comply with rate revisions,  
10     this settlement by all means is unfeasible. It's untenable.

11           Our proposed expert, Jose Almeida, is prepared to  
12     testify on how the set -- the RSA will affect consumers and  
13     how this RSA will be a great prejudice to consumers, to the  
14     point where the settlement is untenable.

15           THE COURT: Thank you.

16           For clarity, I did not say that the impact of -- that  
17     I've concluded that the impact on consumers is necessarily  
18     within the scope of 9019. I raised that as an example of an  
19     issue as to which the government might say, for instance,  
20     well, there's another forum where those concerns can be  
21     raised. It's not this one, for a variety of reasons. But at  
22     this point, again, I didn't have enough information from the  
23     government parties as to what they are trying to accomplish  
24     before this Court, as opposed to, in other ways, to be able to  
25     assess that or to assess their business judgment on issues on

1       which they're asking me to defer to their business judgment.

2                  The short answer on the motions in limine is that I  
3 am going to hold those under advisement pending the further  
4 submissions, but the people against whom the motions in limine  
5 have been filed should not work on the assumption that I  
6 expect to permit them to intervene at the level of presenting  
7 testimony or examining witnesses.

8                  As everyone knows, and as the First Circuit has said,  
9 the Court has discretion in shaping intervention to the extent  
10 intervention is allowed. And so I think it would be wise for  
11 the parties who seek to intervene, to whom objection has been  
12 made, to think about perhaps some briefing of common issues.

13                 There were some overlaps in the submissions that I've  
14 seen. And it may be that to the extent I allow intervention,  
15 it may be the submission of a brief, perhaps some brief  
16 participation and oral argument at the 9019 hearing. But in  
17 order to make that sort of final determination, I need to have  
18 a much better picture of what the scope of the hearing will  
19 be. And I need these additional submissions in order to be  
20 able to do that.

21                 MR. CINTRON GARCIA: Understood. Thank you, Your  
22 Honor.

23                 THE COURT: Thank you.

24                 Someone has come from the back. Yes.

25                 MR. BEREZIN: Good afternoon, Your Honor. Robert

1      Berezin of Weil, Gotshal and Manges on behalf of National  
2      Public Finance Guarantee Corp. Your Honor, I'll be very  
3      brief.

4                 National is PREPA's single largest creditor. We've  
5      been working with the government parties, as well as the  
6      Board, to see if we can join this deal and resolve our  
7      objections. At present, we find ourselves shut out of the  
8      RSA, not by the Board or by AAFAF, but by a certain creditor  
9      group due to rights they were able to negotiate in our absence  
10     during the negotiations.

11               So at this time, we must reserve our rights as an  
12     objector, and while we are going to continue our work, we  
13     wanted the Court to be aware that National, as a secured  
14     creditor and as a bondholder, certainly has objections that  
15     are unique from the others. And again, we hope to resolve  
16     them, but we wanted to reserve our rights for the record and  
17     just make sure you understood where we stand at this juncture.

18               THE COURT: Thank you.

19               MR. BEREZIN: Thank you.

20               MR. AGRAIT BETANCOURT: Good afternoon, Your Honor.

21               THE COURT: Good afternoon.

22               MR. AGRAIT BETANCOURT: Fernando Agrait. I represent  
23     both Windmar Renewable Energy and ICSE, and several not for  
24     profit entities, all related to the general economic situation  
25     in Puerto Rico; and in particular, the impact of PREPA's

1 reorganization and the RSA and their operations.

2 I am highly satisfied with your statement on the need  
3 for additional information which will make possible for this  
4 Court and for those of us who are requesting participation to  
5 know where we are going and where do the government parties  
6 want to go. What worries me at this point is, even under your  
7 statement by Wednesday we have a new report, or by the  
8 government parties' statement that they want us to submit a  
9 sort of rehash joint report for Monday, we don't have a sort  
10 of route that we're going to follow.

11 I mean, it's already late on Wednesday. It's -- you  
12 said that you wanted real interaction and not just circulating  
13 a form to be filled by each party. So I would very much like  
14 from you, the Judge, a specific instruction to different  
15 parties on how we are going to reach what you expect us to do  
16 for next week. Because in my case, I was notified for the  
17 first time by the government parties Friday at 3:30, which was  
18 half an hour before the time for filing the joint report.

19 On Windmar's side, which is even a participant in the  
20 negotiations going outside the courtroom, we were never  
21 notified to be part of the joint report. So I don't think we  
22 should go out today and just expect all of the lawyers and all  
23 the parties to start calling each other and sending e-mails to  
24 establish the road map.

25 THE COURT: Thank you.

1           And so, Mr. Bienenstock, first, I just want to be  
2 clear that even if it's on a different schedule, I need front  
3 end elucidation and substantiation of the factual and legal  
4 case. And these objectors, I expect, will need that to  
5 finally come to grips with their positions on scope and  
6 discovery and that sort of thing.

7           I will grant your request to do true conferring and  
8 provide me a true joint issue identification and proposed  
9 scheduling report on Monday, but as the last speaker observed  
10 quite passionately, we need some agreement on the process that  
11 will be undertaken between here and Monday, so that I don't  
12 just get another collection of how people disagree, because I  
13 know they disagree already. That doesn't really help me.

14           So what do you propose to do in that regard,  
15 Mr. Bienenstock?

16           MR. BIENENSTOCK: We'll obviously speak with the  
17 parties, the objecting parties. I don't know if we're going  
18 to be able to convince anyone that their proposed scope of the  
19 hearing is wrong without Court rulings.

20           For instance, I mean, as Mr. Kleinhaus knows, he  
21 doesn't have a document giving him seniority. And even if he  
22 did, we'll either have a plan that treats him so that the  
23 Court confirms it or not. So we just don't see what he -- why  
24 he should find out what's left or whatever. That's  
25 negotiation, which we want to have with him.

1                   THE COURT: So what's the point of whatever it is you  
2 want to give me Monday, besides perhaps trying to change a  
3 timetable?

4                   MR. BIENENSTOCK: Well, partly it's changing the  
5 timetable to be able to give Your Honor the declarations and  
6 brief Your Honor asked for. Partly, Your Honor, we might make  
7 some progress with some of the parties on narrowing the issue.  
8 I just didn't want to represent to Your Honor that we're going  
9 to give you a fully agreed like pretrial schedule on scope and  
10 everything, because I don't know that the parties will see eye  
11 to eye.

12                  Today -- I mean, today we were surprised that Your  
13 Honor thought that we were asking you to approve so much more  
14 than we thought we were asking you to approve. And as I said  
15 before, I get it, because we asked you to approve the whole  
16 RSA, but hopefully now it's clear how little there is in the  
17 RSA that really requires Court approval.

18                  THE COURT: That will be clearer to me when I see  
19 that in writing and a skinned up proposed order. I heard  
20 what you said, and I understood many of the words. I still  
21 don't frankly have a firm concept of what you believe you need  
22 me to do to keep your supporting parties on board and how  
23 that's different from what you appear to have asked me to do  
24 in your -- the Proposed Order I currently have before me.

25                  If I'm being asked to make the same determinations,

1      whether it's to make people happy or because the law would  
2 require it, in any event, I'm still being asked to make  
3 certain determinations, and I don't have a pathway that  
4 explains to me the legal basis for doing it.

5           So as to -- you had mentioned I think when you first  
6 made this proposal that you intended to share more of the  
7 government parties' thinking about what's really being sought,  
8 and you've done that here orally. Did you have in mind to do  
9 that to a greater degree with the objecting parties in order  
10 to make some different scope proposal or substantiate your  
11 scope proposal, together with the timing proposal, to then  
12 distribute and take comments back or what did you want to do?

13          MR. BIENENSTOCK: Well, I think clearly, based on  
14 Your Honor's remarks today, the government parties would be  
15 wise to skinny down the Proposed Order and/or add to it in  
16 respect to the things we're not asking the Court to do. So  
17 spelling out the meaning of approving the RSA to a very -- so  
18 it's very limited. And that might convince some of the  
19 objecting parties that the hearing should be more narrow.  
20 But, you know, frankly, there's always the possibility that  
21 they just saw this as an opportunity to hold it up until they  
22 have their deals. And we would love to have deals with them,  
23 but I don't know if that will happen before the RSA comes on  
24 for approval.

25           So I don't know if it will make the objecting parties

1      happy when we -- or change their positions when we -- if we  
2      narrow down the Proposed Order, but we're certainly going to  
3      give it a try.

4                THE COURT: Well, and of course the immediate issue  
5      here is the scope of the hearing, and obviously if you had  
6      everybody on board with a deal, it would be a different kind  
7      of hearing. But assuming that there will still be contention,  
8      I still have to deal with what we're going to have in terms of  
9      pre-hearing discovery, what we would have in terms of witness  
10     testimony, how long that would take, who gets to speak. And  
11     that still needs to be informed by your submissions. And it  
12     may be that your opponents' positions as to what discovery  
13     they're going to continue to press for and whether they are  
14     going to continue to contend that they want to put on X, Y and  
15     Z witnesses may or may not change.

16               So I don't want to waste any time here, so let me  
17     propose this. By midday Friday, the government parties should  
18     distribute to every objector and target of a motion in limine  
19     whatever you're willing to provide in terms of a firmer road  
20     map of what you would expect to substantiate in terms of what  
21     is being asked for and the rationale for getting there in your  
22     subsequent submission of declarations and supplemental  
23     memorandum of law, plus your proposed timetable for the actual  
24     filing of the declarations and supplemental memorandum of law,  
25     and whatever other shifts in the timetable you propose to

1 make.

2                   And I suppose you can include in that distribution  
3 two requests: One, for parties to have the opportunity to  
4 respond back as to whether this information changes their view  
5 as to the contested discovery issues that have been  
6 identified; and second, whether that view has been changed or  
7 not by this distribution, whether there are particular  
8 objections to the timetable changes that you are proposing.

9                   And then I suppose you react to that, and maybe you  
10 have one more round of e-mailing with deadlines so that  
11 everybody has had an opportunity to speak their piece by call  
12 it noon Monday. And by close of business Monday, you file  
13 this joint statement. And that's a very rough concept of how  
14 you could do it, but that's a way it could be done.

15                  Mr. Friedman's coming up.

16                  MR. FRIEDMAN: Your Honor, it's Peter Friedman.

17                  I think what you're proposing is going to result in a  
18 multiple iterative process. I think we'll be able to provide  
19 together some of that by Friday. I think the bulk of what  
20 we'll be able to accomplish in this next submission will be  
21 scheduling oriented, and then it's possible that we will wind  
22 up after we actually submit whatever we submit in response to  
23 your detailed requests.

24                  Then being able to have a further and probably more  
25 meaningful pretrial discussion, because --

1                   THE COURT: And that's why I had proposed filing the  
2 further information, and then have the pretrial discussion.  
3 It's -- you all have asked me for this interim step.

4                   MR. FRIEDMAN: So I think we'll see where we can get,  
5 and we will commit to together providing the information we  
6 can provide. But it may be that this is an interim step and  
7 there has to be a second round of it.

8                   But to the extent we can start the process and wind  
9 up, at a minimum, with a better engagement than last time  
10 together, that would be useful. It may be that people say,  
11 look, in the interim 48 hours, really all we can comment on is  
12 timing. That may happen. And it may be the effort to try to  
13 do something as an interim step doesn't get us nearly as far  
14 as we'd like, and that it does have to wait until after we do  
15 the detailed submissions you suggested.

16                  So I guess we'll do our best and we'll see. Maybe us  
17 having thought that we could do something in the next 48 hours  
18 on that is overly ambitious, but it's worth a try.

19                  THE COURT: Okay. So make sure everybody you know  
20 who's concerned is in the loop.

21                  MR. FRIEDMAN: Okay.

22                  THE COURT: And that that happens as soon as possible  
23 so that people aren't being presented with a *fait accompli* at  
24 the 11th hour.

25                  MR. FRIEDMAN: I agree. I guess what I'd ask is

1      counsel, if we file the motion -- if people know where to find  
2      me -- we'll obviously do outreach, too, but if you want to be  
3      on this distribution, please e-mail me so that we don't have  
4      any slips.

5            I think people know where to find me. Just send me  
6      an e-mail and we'll match it up to a master list. But I just  
7      want to make sure that we don't inadvertently forget anybody.  
8      And I will take on the responsibility of making sure that that  
9      happens, but I would ask that people e-mail me.

10           THE COURT: Thank you, Mr. Friedman.

11           MR. WHITMORE: Your Honor, Clark Whitmore from the  
12      lawfirm of Maslon LLP, as the Indenture Trustee.

13           I think Mr. Friedman just anticipated my request.  
14      The U.S. Bank, as trustee, has been directed to join in the  
15      motion and will -- exculpation is one of the subject matters.  
16      And so we're interested and would very much appreciate being  
17      included in the distribution and discussions that are going  
18      on.

19           THE COURT: Very good. So e-mail your e-mail address  
20      to Mr. Friedman.

21           MR. WHITMORE: Yes. Absolutely. Thank you.

22           THE COURT: Thank you.

23           Mr. Bienenstock.

24           MR. BIENENSTOCK: Your Honor, we wonder if the Court  
25      would change the close of business Monday to Tuesday noon?

1      This is just hard to do that quickly, and we're all going to  
2      be traveling either tonight or tomorrow morning, so it doesn't  
3      leave really much time before Friday and Monday --

4                THE COURT: All right. You're the one that said  
5      Monday. Tuesday noon.

6                MR. BIENENSTOCK: Okay. Thank you, Your Honor.

7                THE COURT: Okay. Thank you.

8                So does anybody need Judge Dein to come up here to  
9      talk about whether there should be a hearing Friday or can we  
10     simply assume there won't be a hearing Friday?

11               Okay. Raise your hand if you want to have a hearing  
12     Friday. Okay. Seeing none --

13               HONORABLE MAGISTRATE JUDGE DEIN: (Raised hand.)

14               THE COURT: Okay. Judge Dein, glutton for punishment  
15     --

16               HONORABLE MAGISTRATE JUDGE DEIN: Oh, well, I --

17               THE COURT: All right. Then --

18               HONORABLE MAGISTRATE JUDGE DEIN: Can I just --

19               THE COURT: Yes. Come up here, please.

20               COURTROOM DEPUTY: All rise.

21               HONORABLE MAGISTRATE JUDGE DEIN: I'm certainly not  
22     going to add a hearing, and I think it makes a lot of sense to  
23     wait until the scope of the RSA hearing is defined, but some  
24     of the discovery issues it seemed to me should be done on  
25     submission. There are some legal issues that were raised. I

1      just ask the parties to think about that afterwards when you  
2      get into the discussion as to the scope of discovery, whether  
3      or not, excuse me, some of it should just be done on  
4      submission on some legal rulings. Okay? But I'm canceling my  
5      Friday afternoon hearing.

6                 THE COURT: Please be seated.

7                 All right. So I believe that this concludes today's  
8      Agenda. Seeing no one protesting that, this conclude today's  
9      Agenda.

10                So the next scheduled hearing date is Wednesday, June  
11      26th, in Boston, with a video connection with San Juan. I  
12      think that's about the GO Procedures Motion.

13                HONORABLE MAGISTRATE JUDGE DEIN: Right. We'll talk  
14      about --

15                THE COURT: Yes.

16                And so as of now, that's what's on the calendar. And  
17      there's also a June 28th date that's just been put on the  
18      calendar.

19                HONORABLE MAGISTRATE JUDGE DEIN: In New York.

20                THE COURT: In New York. So there may be some  
21      switching around. Keep flexible that week, folks.

22                Mr. Despins.

23                MR. DESPINS: It might be helpful, Your Honor, if one  
24      of your law clerks could e-mail the Board or us with a list of  
25      blackout dates where you're not available in August. We're

1      not saying we're changing dates yet, because they don't have  
2 authority, but I think it helps people figure out if we know  
3 those dates are out.

4                 THE COURT: Most of them. August is not a good  
5 month. I am always on the radar. I think I am the one person  
6 in this room who has been literally on the radar for the past  
7 two years and a month, and will be indefinitely because of  
8 this lovely statute that we're all operating under. But for  
9 staffing and other reasons, August would be a difficult month  
10 to conduct substantive court proceedings.

11                 So Mr. Bienenstock, did you want to say something  
12 before I make my usual closing speech?

13                 MR. BIENENSTOCK: No. No, Your Honor.

14                 THE COURT: Okay. So again, as usual, I thank the  
15 court staff here in Puerto Rico, in Boston and New York. And  
16 today especially, Lisa Ng, who has operated as deputy here;  
17 Sarah De Jesus, who has been doing it in New York; the IT and  
18 AV staffs of the District of Puerto Rico and the Southern  
19 District of New York in contending with our various  
20 communications issues today; and our ace court reporter, Amy  
21 Walker, who keeps up with all of us, and for that, I'm very  
22 grateful.

23                 And I'm grateful to the entire PROMESA team for their  
24 work in preparing for and conducting today's hearing and their  
25 superb ongoing support of the management and administration of

1           these very complex cases.

2                 And so with that, keep well, thanks and safe travels  
3 to all.

4                 (At 4:36 PM, proceedings concluded.)

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1      U.S. DISTRICT COURT        )  
2      DISTRICT OF PUERTO RICO)  
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4                  I certify that this transcript consisting of 196 pages is  
5                  a true and accurate transcription to the best of my ability of  
6                  the proceedings in this case before the Honorable United  
7                  States District Court Judge Laura Taylor Swain and the  
8                  Honorable United States District Court Magistrate Judge Judith  
9                  Gail Dein on June 12, 2019.

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13                  S/ Amy Walker  
14                  Amy Walker, CSR 3799  
15                  Official Court Reporter  
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